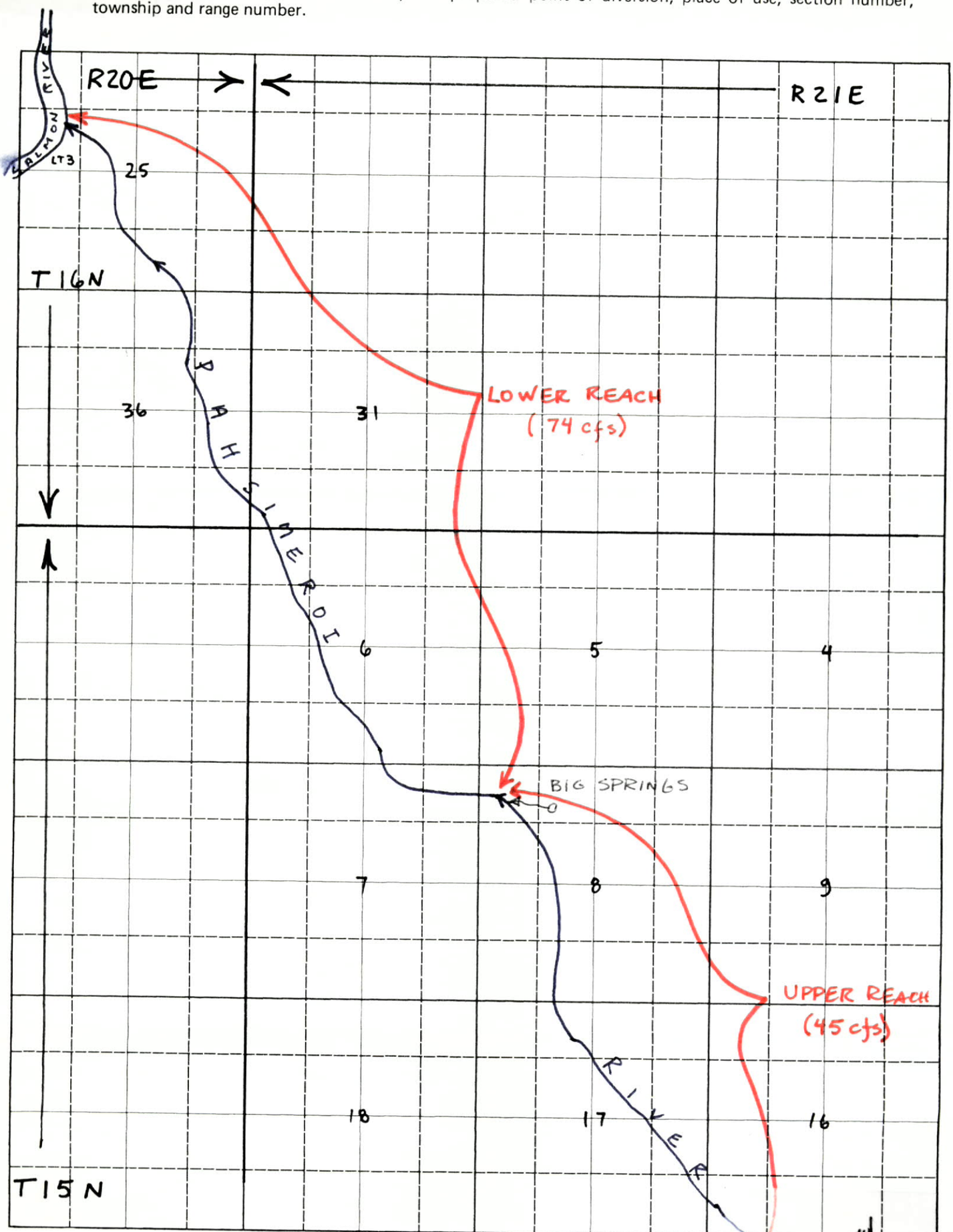
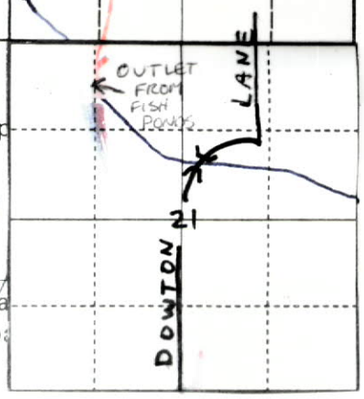
11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.



BE IT KNOWN that the undersigned hereby makes application for permit to appro
the State of Idaho as herein set forth.

M. Reed J

CHAIRMAN (Applica
Idaho Water Resource Bo

MICROFILMED

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS, Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated Aug. 19, 19 82 and ending with the issued dated Aug. 26, 19 82

Margaret Parks

Subscribed and sworn to before me this 26th day of August, 19 82

Ethel M. Peck

Notary Public, residing at Challis, Idaho. My commission expires on

Life

MICROFILMED

NOTICE OF AMENDED APPLICATION FOR PERMIT FOR MINIMUM STREAMFLOW

Notice is hereby given that application for permit No. 73-7045 in the name of Idaho Water Resource Board was filed for the appropriation of 74 to 127 cubic feet per second of water within the NW¼-NW¼, Sec. 25, T. 16N, R. 20E extending approximately 7 miles upstream to the NE¼NE¼, Sec. 21, T. 15N. R. 21E, B.M., Custer County.

The applicant now proposes to amend application No. 73-7045 proposing the appropriation of 74 c.f.s. of water from the confluence of the Pahsimeroi and the Salmon River upstream to Big Springs, and 45 c.f.s. from Big Springs upstream to the outlet of the fish rearing and release ponds within the NW¼NW¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County; to be used from January 1 to December 31 to maintain trout and salmon spawning, migration and rearing habitat in the Pahsimeroi River tributary to Salmon River.

The Department of Water Resources will hold a public hearing on the application in the Legion Hall, Main Street, Challis, Idaho, at 9:00 a.m. on Septembe 24, 1982, for the purpose of hearing evidence in regard to the application. The hearing will be held pursuant to the provisions of Section 42-1503, **Idaho Code.**

Any party who wishes to formally appear at this proceeding for the purpose of presenting evidence or cross-examinating witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Pub: Aug. 19 & 26, 1982

NOTICE OF AMENDED APPLICATION FOR PERMIT FOR MINIMUM STREAMFLOW

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If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Published in The Recorder Herald, September 9 and 16, 1982.

9-9-2tc

MICROFILMED

Affidavit of Publication

RECEIVED
SEP 17 1982
Department of Water Resources
Eastern District Office

STATE OF IDAHO }
County of Lemhi } ss.

JERRY G. ROSIN, being first duly sworn, deposes and says that he is one of the printers (publisher) of the RECORDER HERALD, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein,

That the Notice of Amended Application for Minimum Streamflow

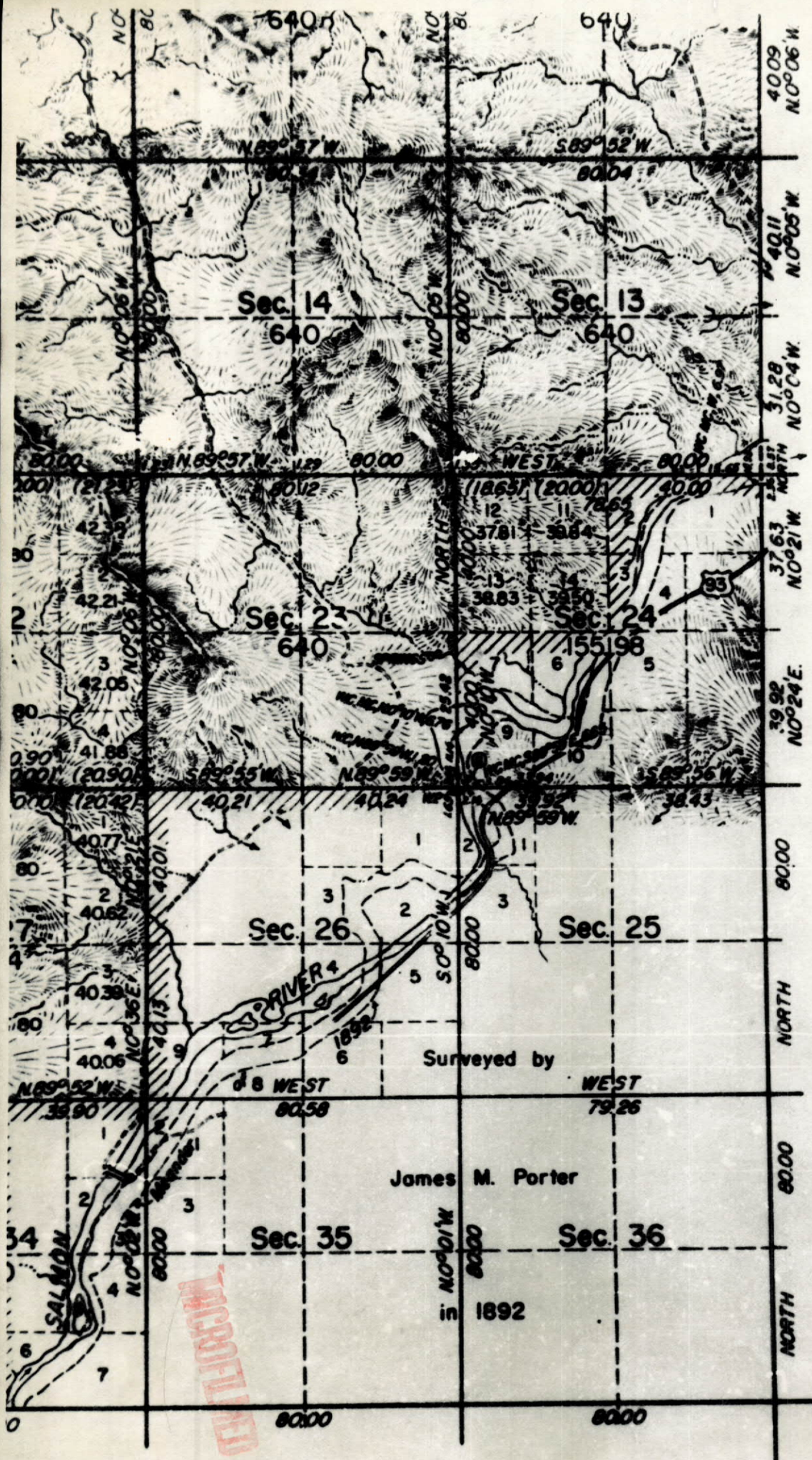
a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for 2 consecutive issues, commencing with the issue dated Sept. 9, 19 82 and ending with the issue dated Sept. 16, 19 82

Jerry G. Rosin

Subscribed and sworn to before me, this sixteenth day of September, 19 82

Vera Armstrong
Notary Public for the State of Idaho,
Residing at Salmon, Idaho

Publication Fee $ 36.00



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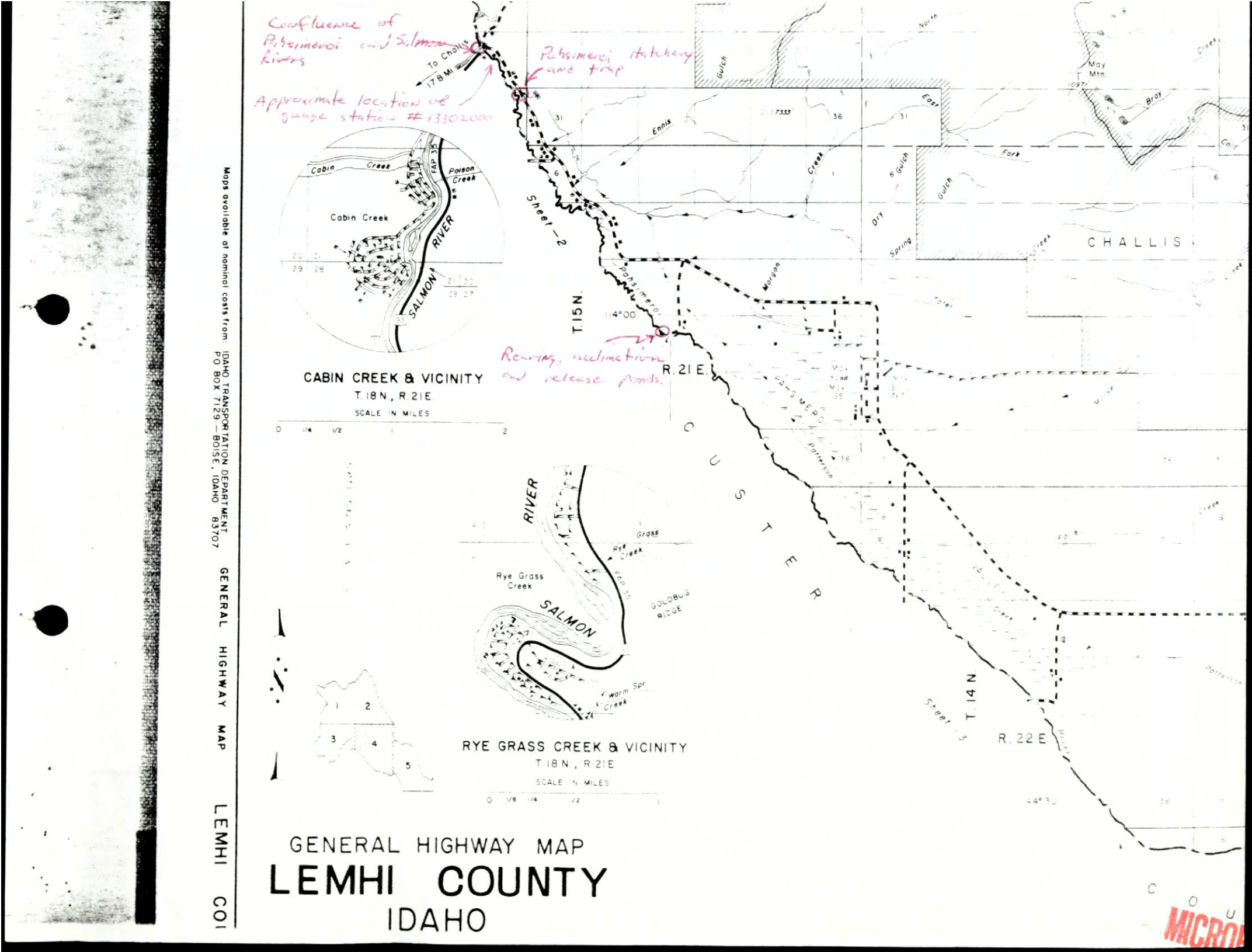
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Latitude 44° 40' 30" N
Longitude 113° 59' 00" W

MICROFILMED



Maps available at nominal costs from: IDAHO TRANSPORTATION DEPARTMENT, P.O. BOX 7129 — BOISE, IDAHO 83707

GENERAL HIGHWAY MAP LEMHI COUNTY IDAHO

GENERAL HIGHWAY MAP
LEMHI COUNTY
IDAHO

MICRO

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS

Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated June 12, 19.80. and ending with the issued dated June 19, 19.81.

Margaret Parks

Subscribed and sworn to before me this 10 day of April, 1981

Notary Public, residing at Challis, Idaho. My commission expires on April 30, 1983

MICROFILMED

RECEIVED

APR 13 1981

Department of Water Resources
Eastern District Office

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

BS

Notice is hereby given that the Idaho Water Resource Board has on December 19, 1979 submitted Application for Permit No. 73-7045 to the Department of Water Resources proposing the appropriation of 74 to 127 cubic feet per second of water within the NW¼NW¼, Sec. 25, T. 16N, R. 20E extending approximately 7 miles upstream to the NE¼NE¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County to maintain trout and salmon spawning, migration, and rearing habitat year around in the Pahsimeroi River tributary of the Salmon River.

NW¼

The Director of the Department of Water Resources will hold a public hearing on the application in the Challis High School Gym, Main Street, Challis, Idaho at 9:00 a.m. on July 9, 1980 for the purpose of hearing evidence in regard to the application. The hearing will be held pursuant to the provision of Section 42-1503, **Idaho Code.**

Any party who wishes to formally appear at this proceeding for the purpose of presenting evidence or cross examining witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

If issued the permit will be subject to all prior water rights.

C. STEPHEN ALLRED,
Director

Publish 6/12 & 6/19/80

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, ETHEL M. Peck

~~Publisher of~~ the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for two consecutive weeks, commencing with the issue dated November 5, 19.81 and ending with the issued dated November 12 19.81

Subscribed and sworn to before me this 9 day of December 19.81

Barbara S. Garcia

Notary Public, residing at Challis, Idaho. My commission expires on August 18, 1985

NOTICE OF PUBLIC MEETING FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board plans to hold an informal meeting to obtain public input concerning a minimum stream flow application No. 73-7045 on the Pahsimeroi River tributary to the Salmon River.

The meeting will be held on Wednesday, November 18, 1981 at 1:00 p.m. in the Courtroom, Custer County Courthouse, Challis, Idaho.

Any person interested in this application is invited to appear and provide comments.

A. KENNETH DUNN
Director

Pub. Nov. 5 & 12, 1981

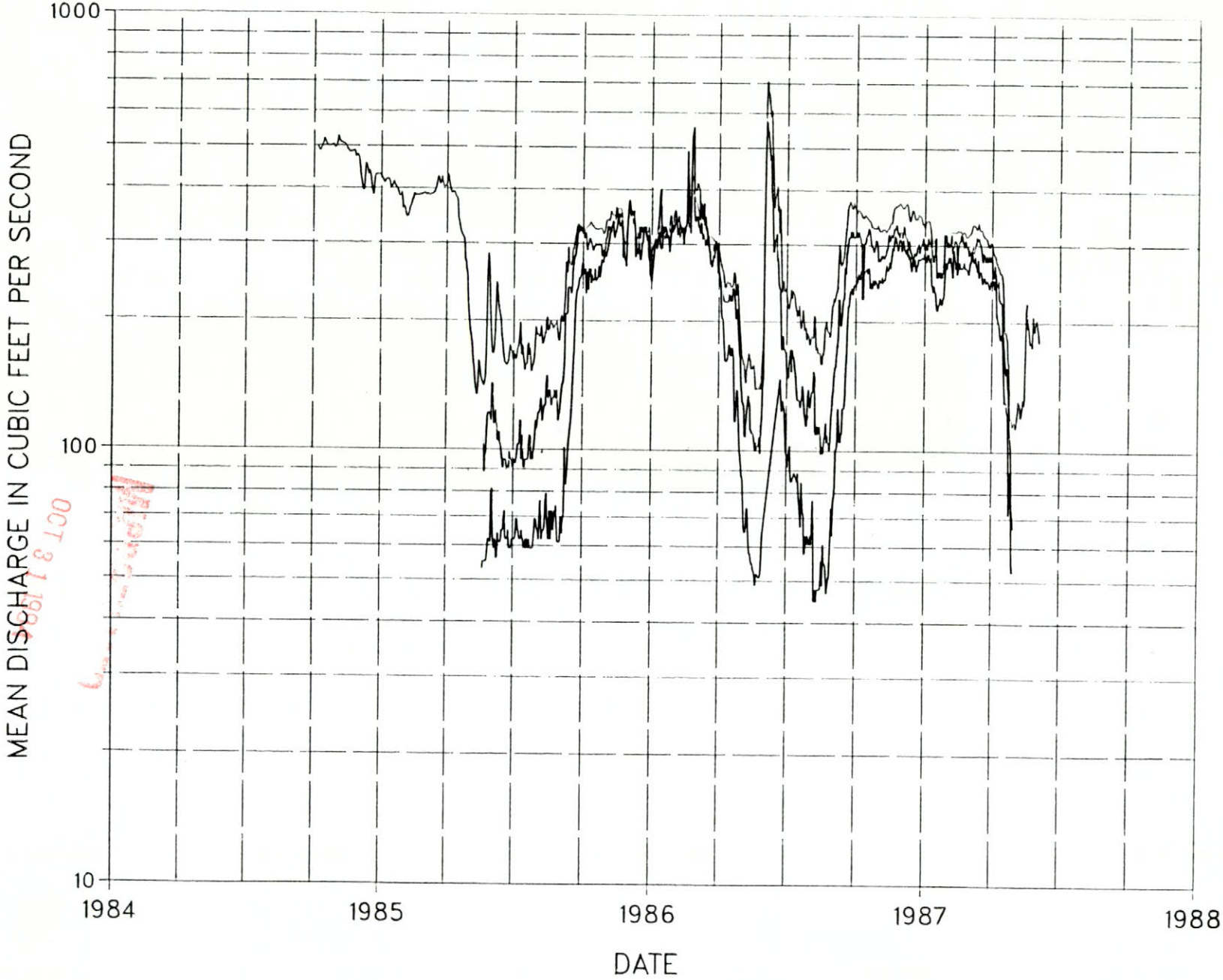
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DEC 24 1981
Department of Water Resources
Eastern District Office

RECEIVED
DEC 17 1981
Department of Water Resources
Southern District

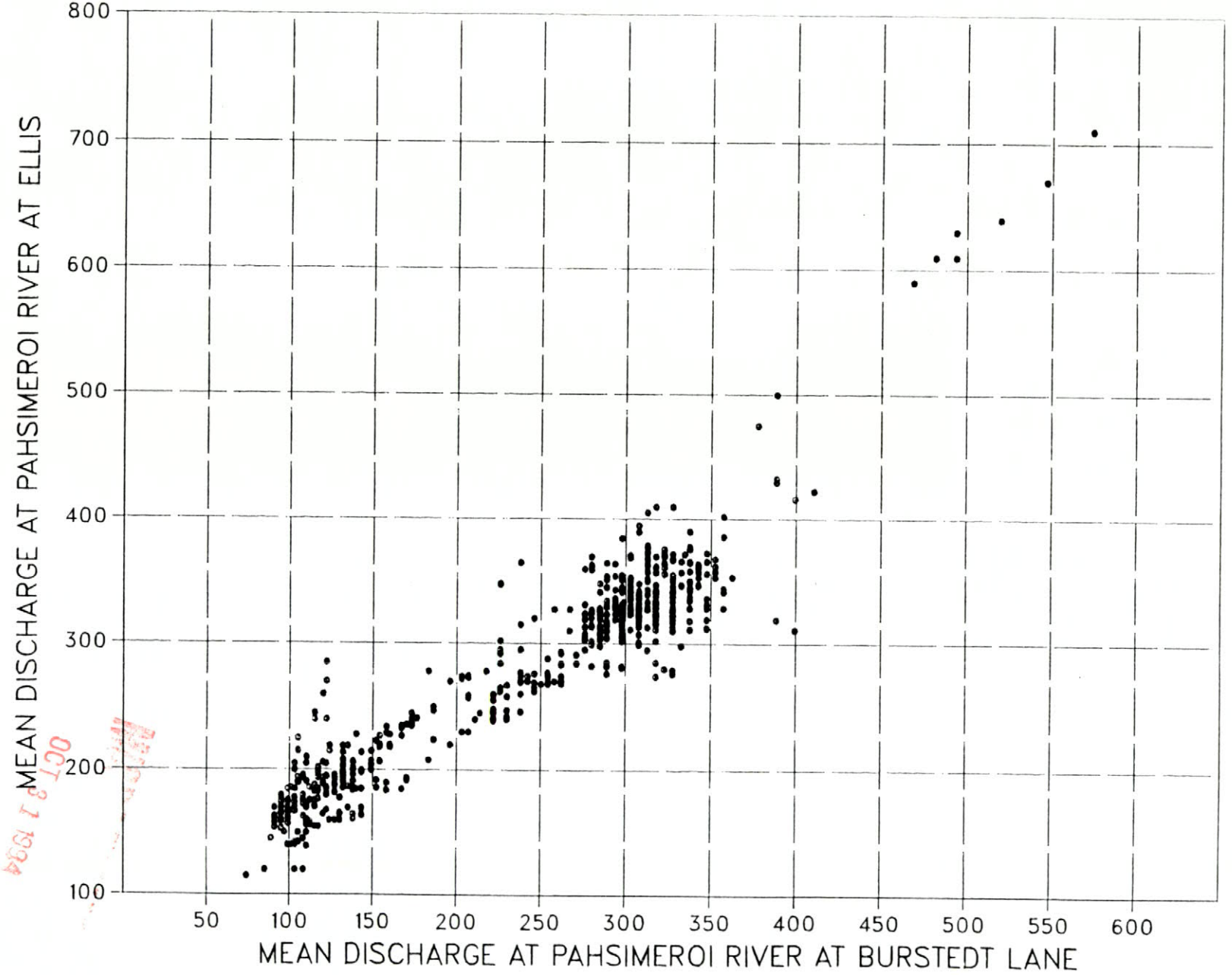
MICROFILMED

idw Falls

PAHSIMEROI RIVER
GAGING STATIONS

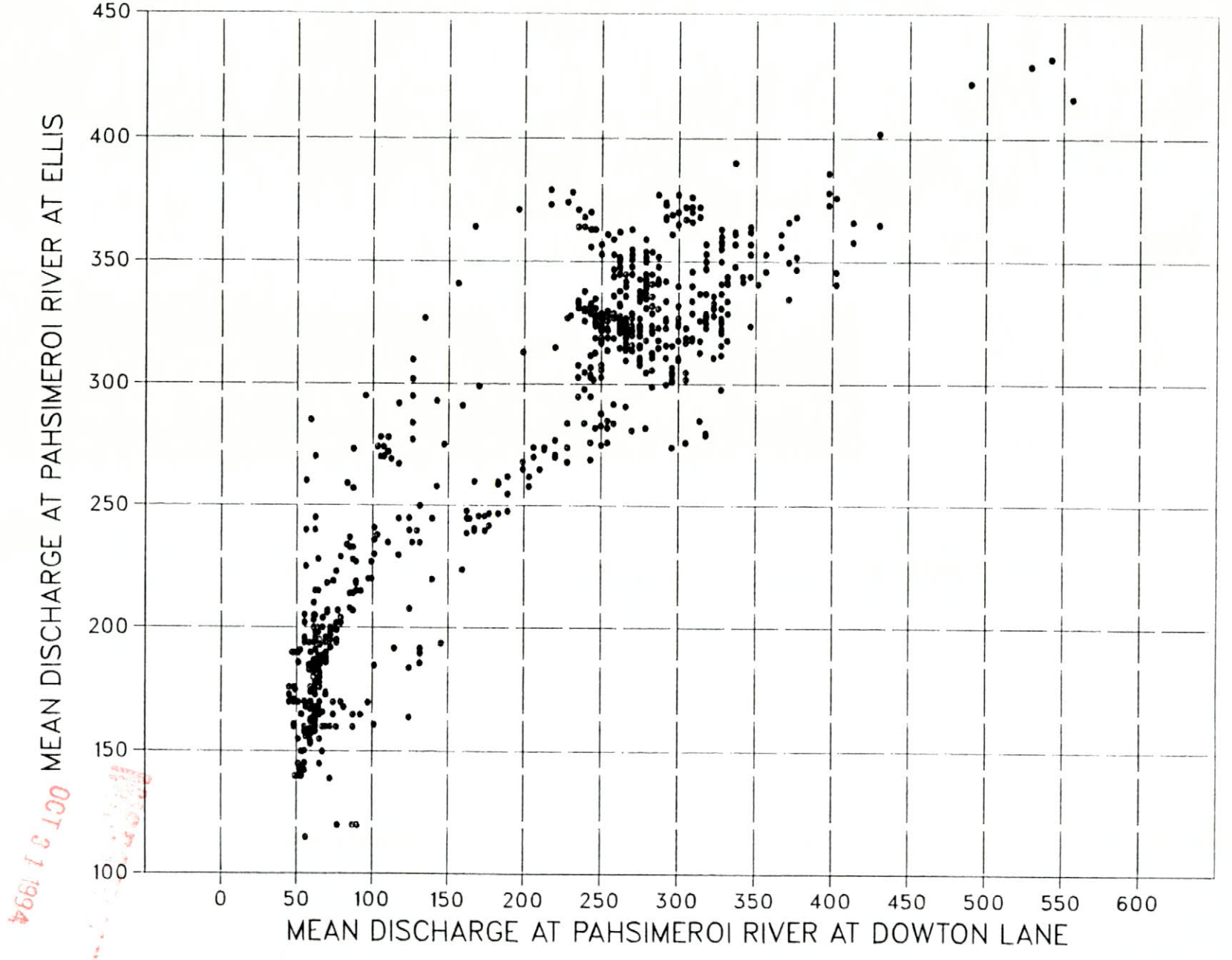


PAHSIMEROI RIVER
DISCHARGE CORRELATION



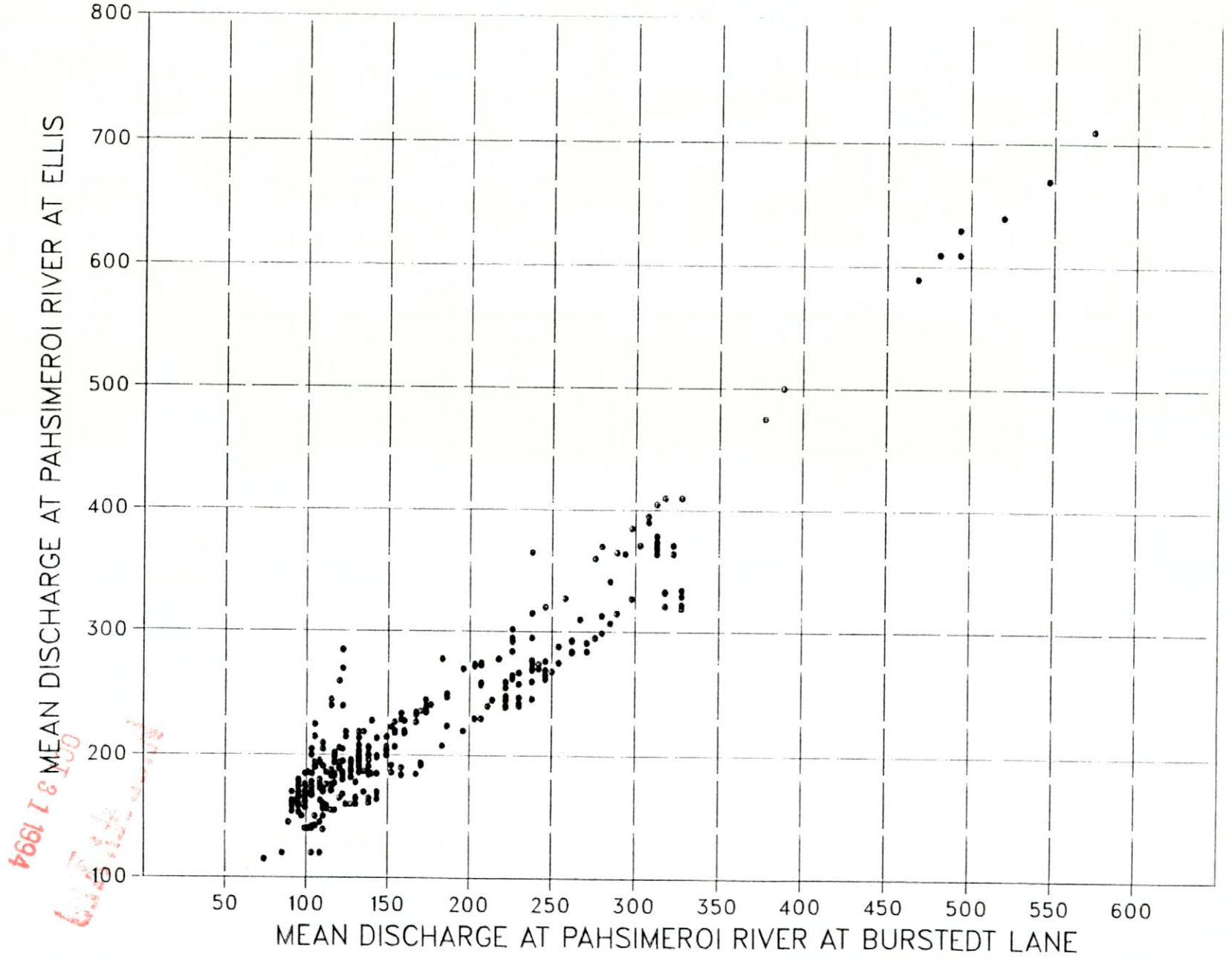
OCT 31 1994

PAHSIMEROI RIVER
DISCHARGE CORRELATION



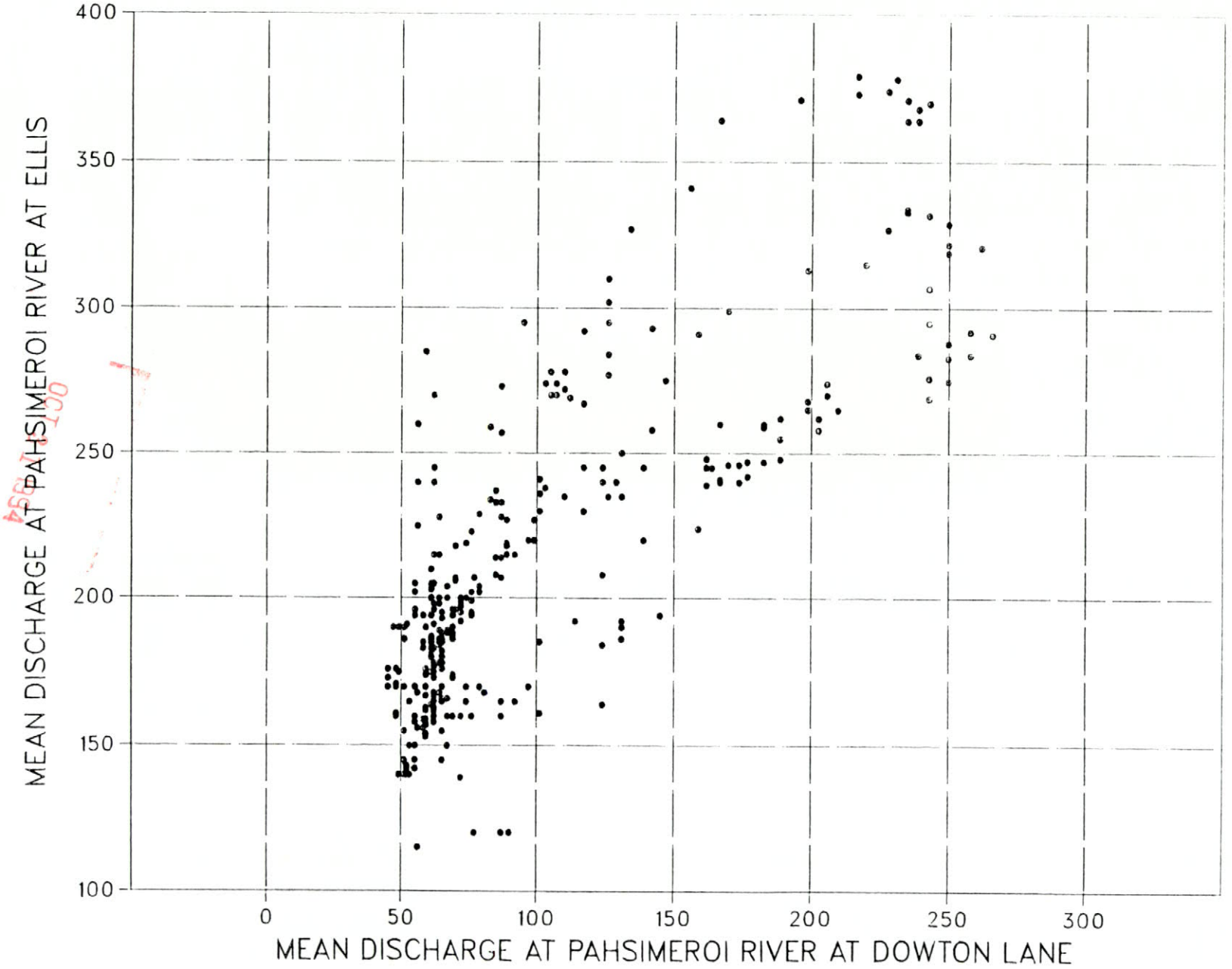
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PAHSIMEROI RIVER
DISCHARGE CORRELATION -- IRRIGATION SEASION -- APRIL THROUGH SEPTEMBER

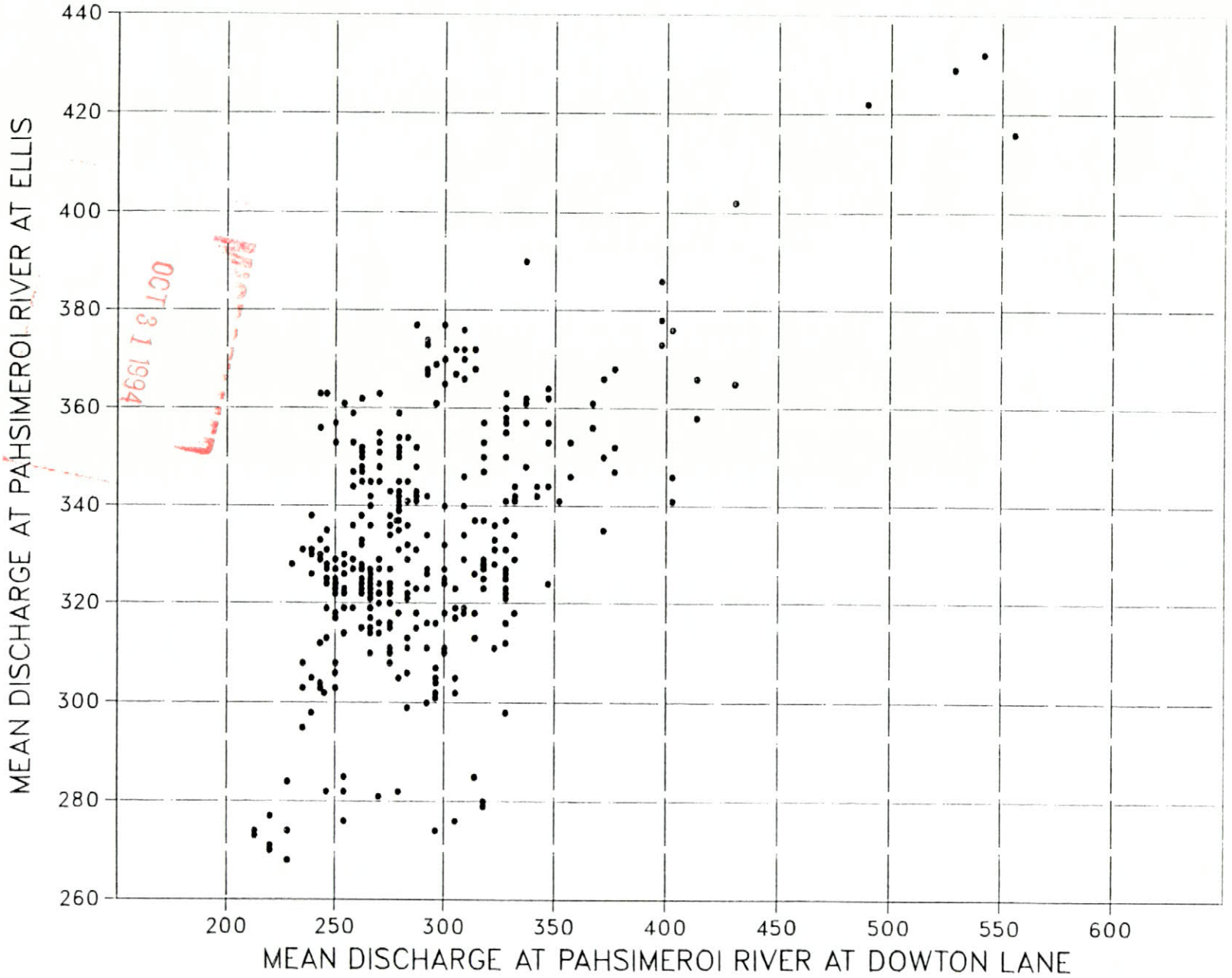


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DISCHARGE CORRELATION -- IRRIGATION SEASON -- APRIL THROUGH SEPTEMBER

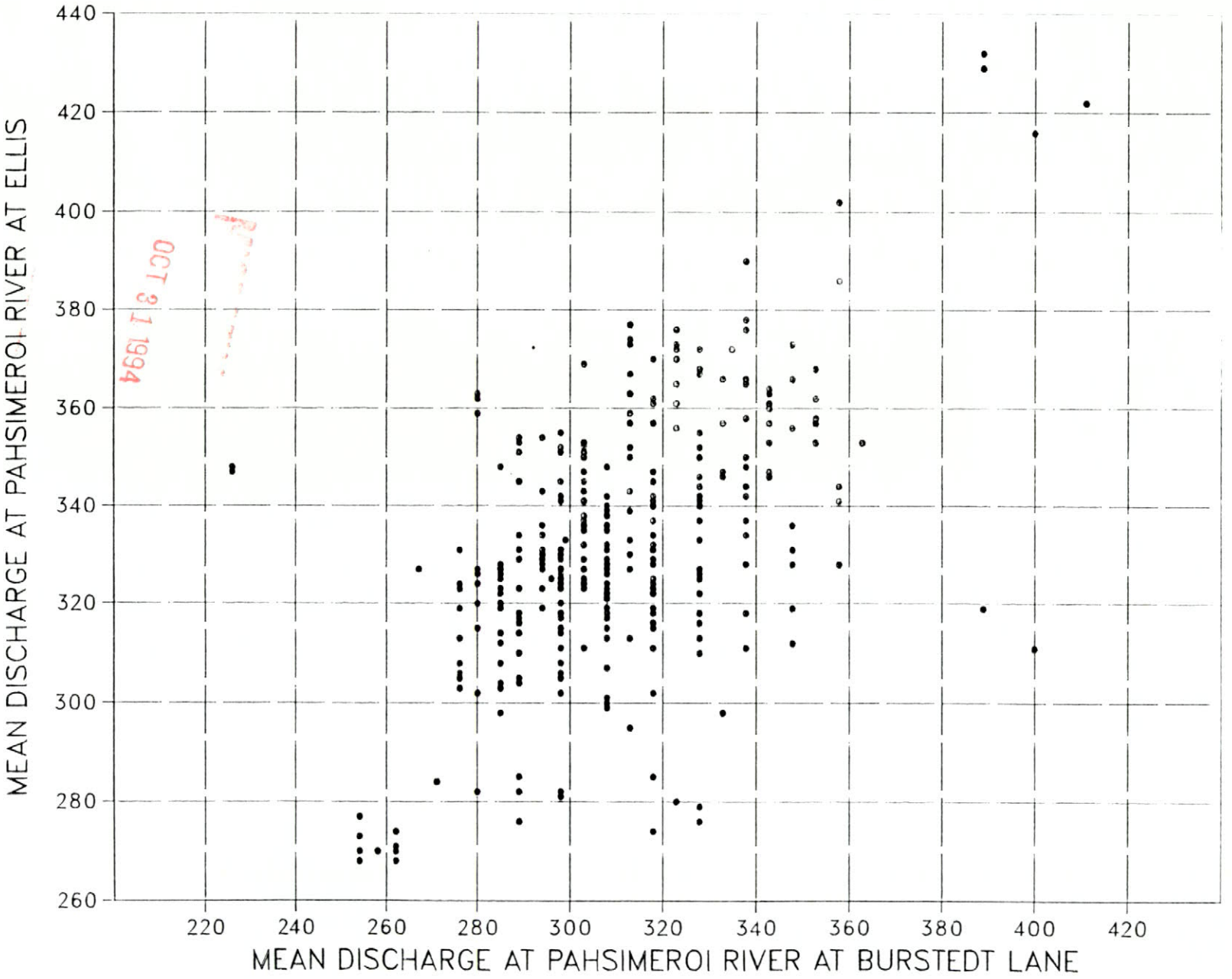


PAHSIMEROI RIVER
DISCHARGE CORRELATION -- WINTER SEASON -- OCTOBER THROUGH MARCH



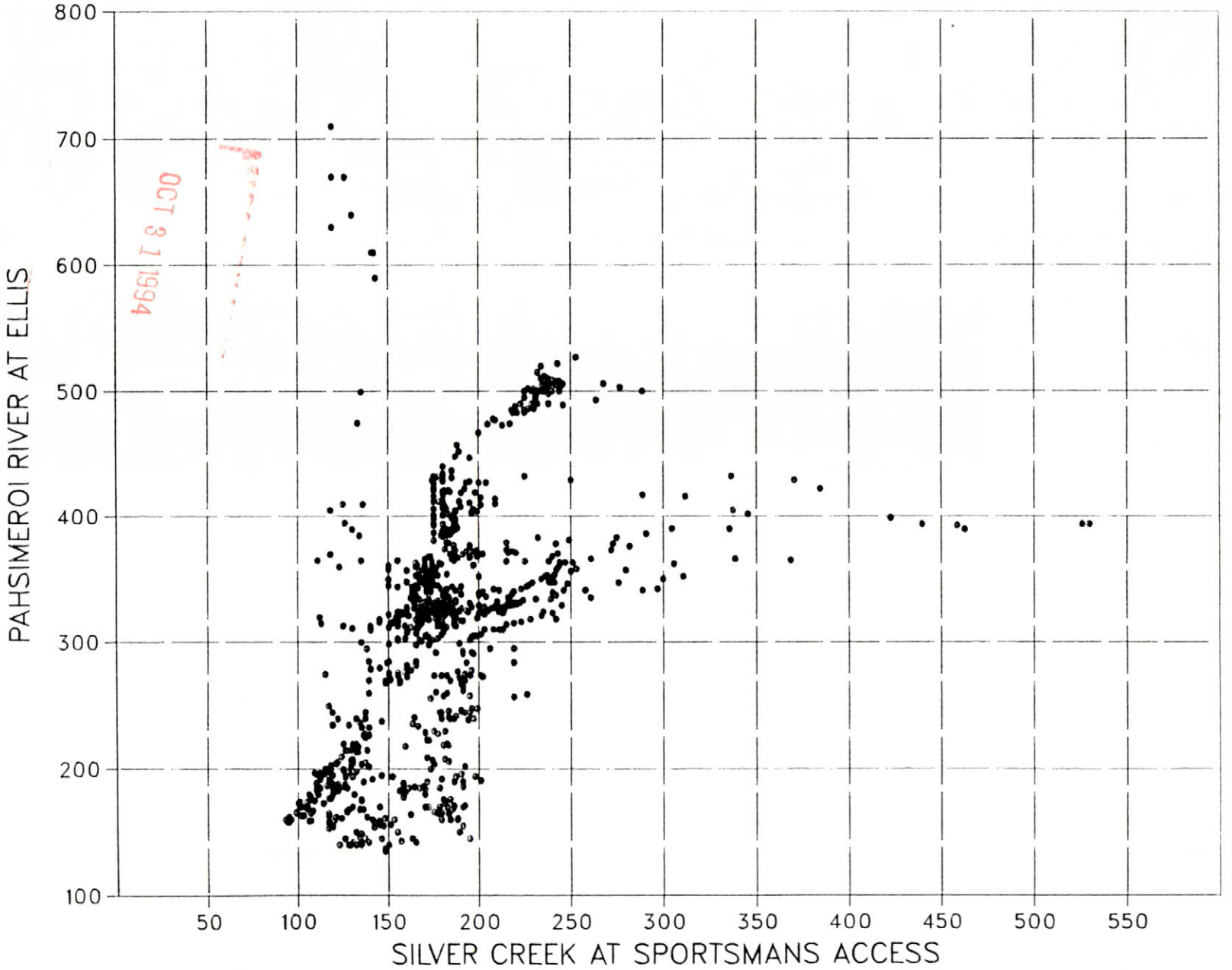
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PAHSIMEROI RIVER
DISCHARGE CORRELATION -- WINTER SEASON -- OCTOBER THROUGH MARCH



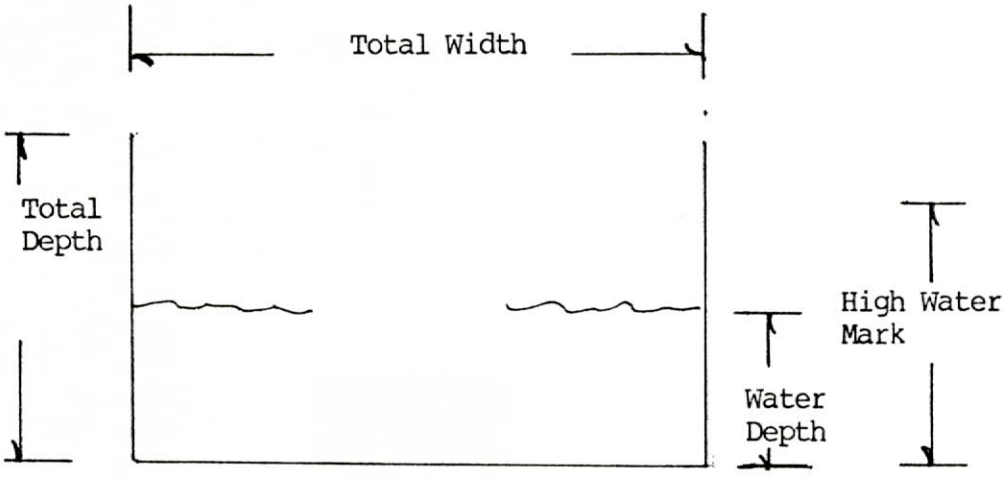
OCT 31 1994

PAHSIMEROI RIVER
DISCHARGE CORRELATION WITH SILVER CREEK

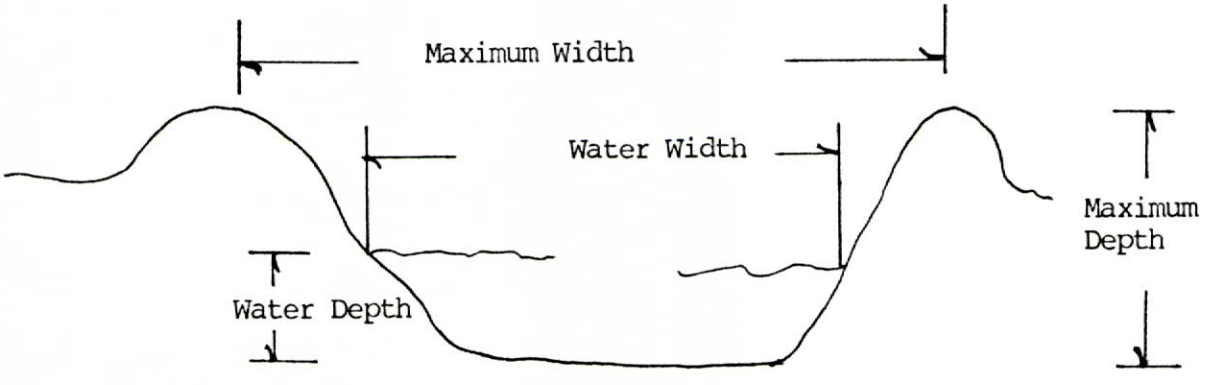


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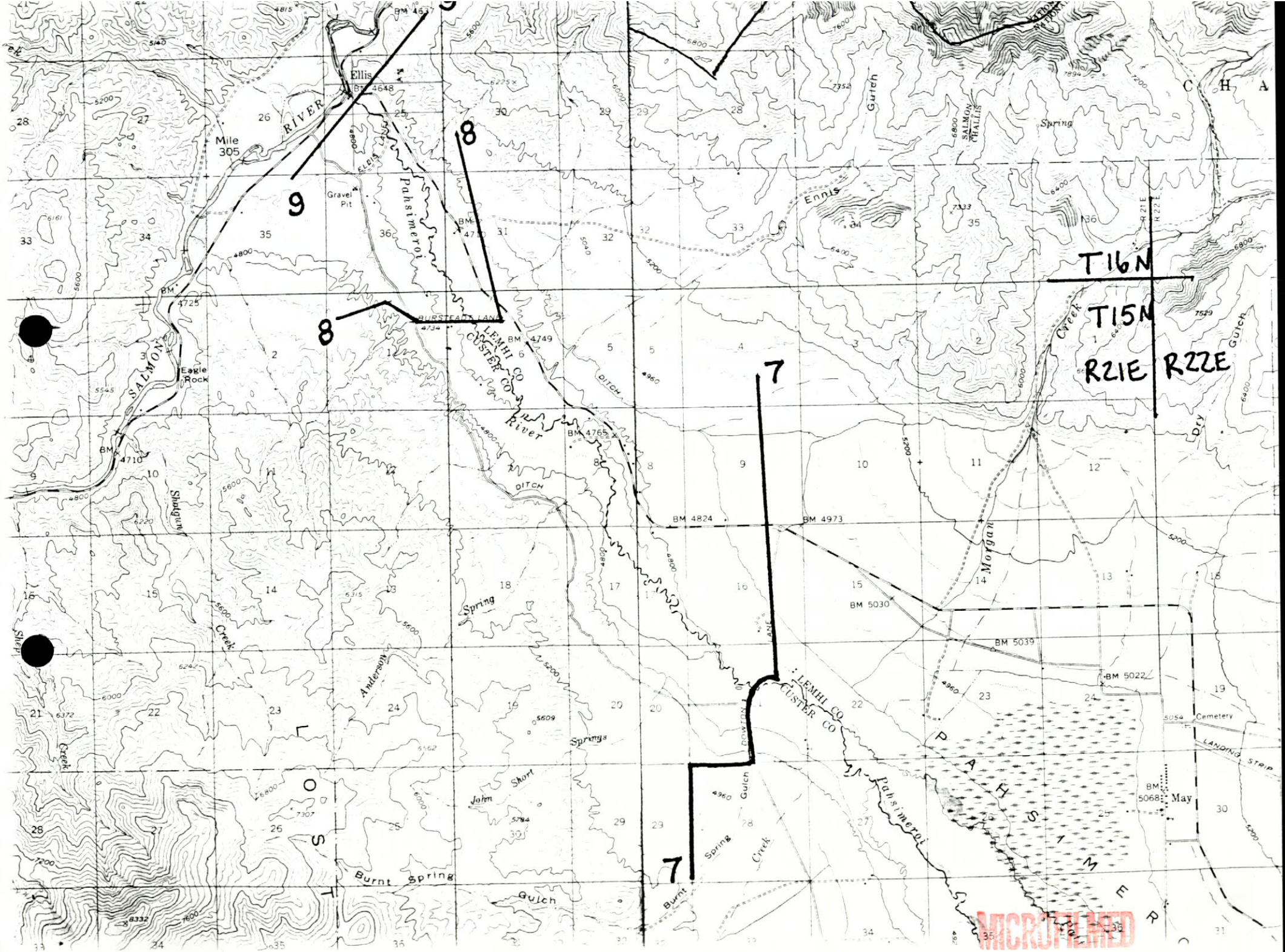
HEADGATE MEASUREMENT METHOD



IRRIGATION DITCH MEASUREMENT METHOD

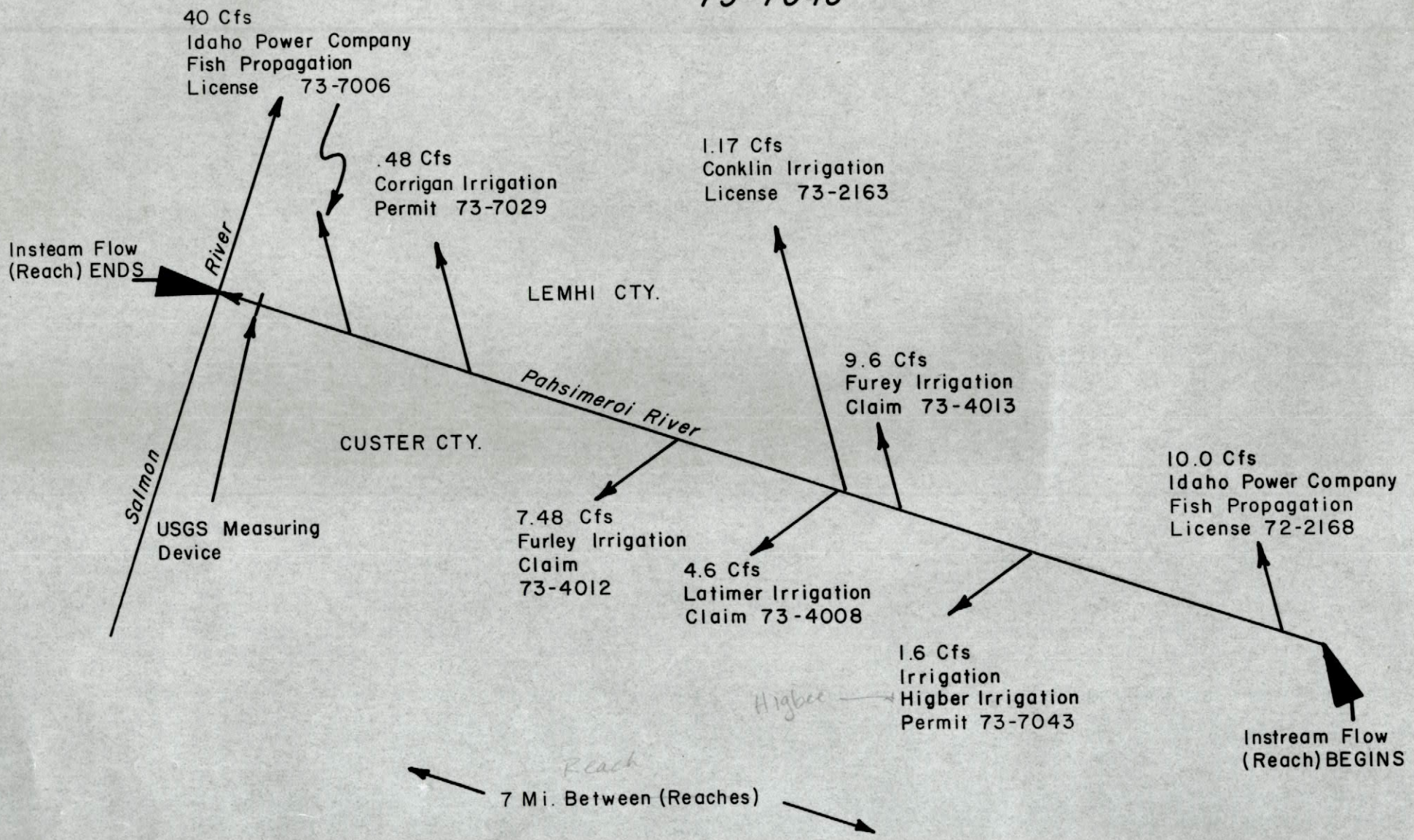


OCT 31 1994


T16N
T15N
R21E
R22E
Ellis
Mile 305
RIVER
Pahsimeroi
Gravel Pit
Ennis
Gulch
Spring
SALMON
Eagle Rock
Shotgun
Creek
Anderson
Morgan
Dry
Gulch
LEMHI CO
CUSTER CO
River
DITCH
BURSTEAD LANE
ELLIS LANE
BM 4725
BM 4710
BM 4749
BM 4765
BM 4824
BM 4973
BM 5030
BM 5039
BM 5022
BM 5068
Cemetery
LANDING STRIP
May
Burnt Spring
Gulch
John Short
Spring
Creek
PAHSIMEROI
MICROFILMED

MICROFILMED

PAHSIMEROI RIVER
73-7045



Board Requested Flows Cfs By Month-

J	F	M	A	M	J	J	A	S	O	N	D
85	74	78	109	109	78	78	127	127	127	85	85

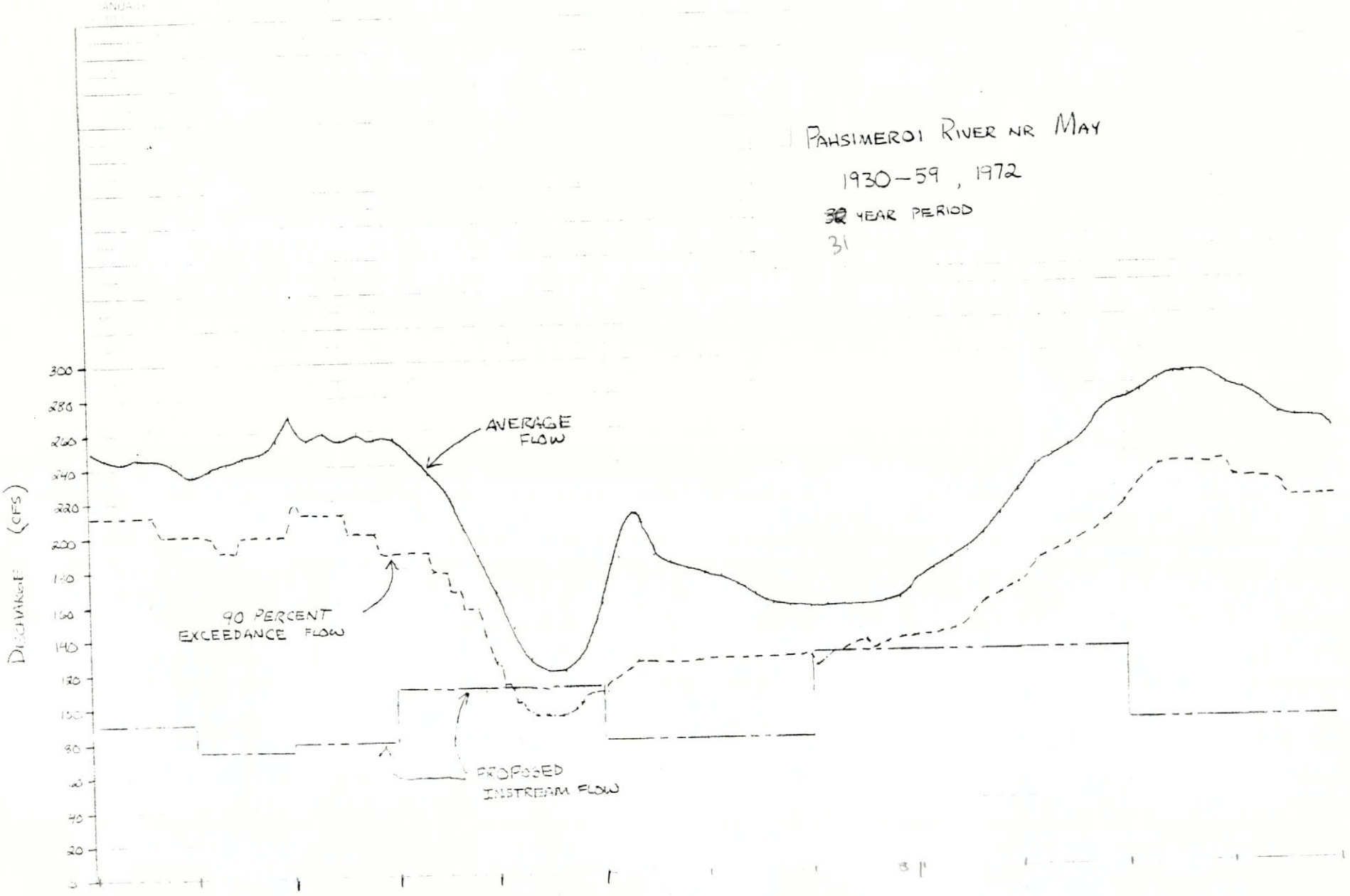
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K•E 1 YEAR BY DAYS X 250 DIVISIONS
KEUFFEL & ESSER CO

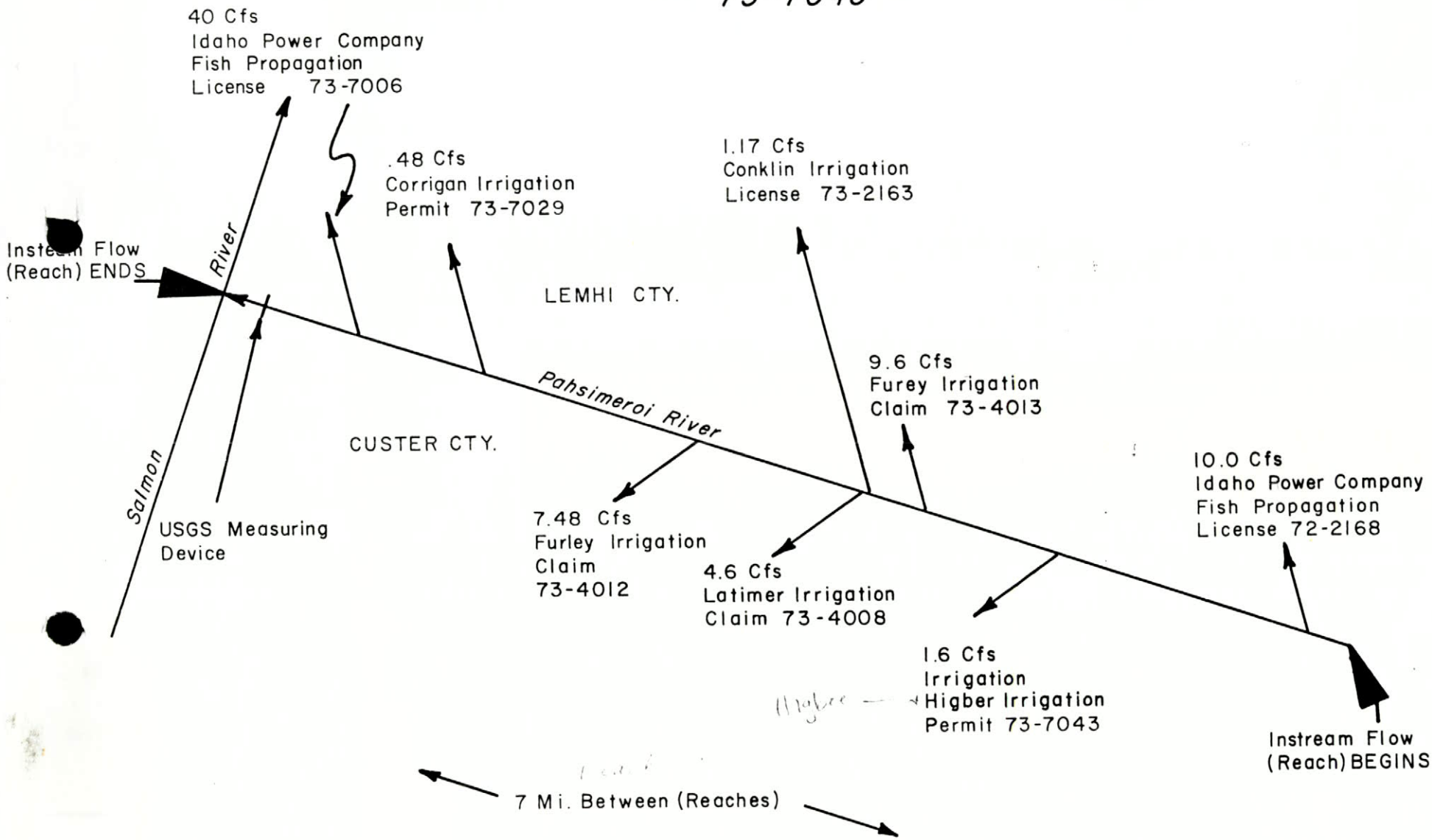
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FIGURE 1. SUMMARY HYDROGRAPH, PAHSIMEROI RIVER NR MAY

PAHSIMEROI RIVER NR MAY
1930–59, 1972
~~30~~ 31 YEAR PERIOD



PAHSIMEROI RIVER
73-7045



Board Requested Flows Cfs By Month -

J	F	M	A	M	J	J	A	S	O	N	D
85	74	78	109	109	78	78	127	127	127	85	85

Rainbow ^ spawn in April & May

- Fish & game has no flow info for Pahsimeroi R.

- Idaho Power facilities will be expanded to accomodate increased salmon run population. How will the water right be obtained.

→ Provide copies of all exhibits to full parties

Salmon facilities will be built whether or not this app is approved.

FRANK W. WELSH

Pahsimeroi R. is the prime fishery in this area

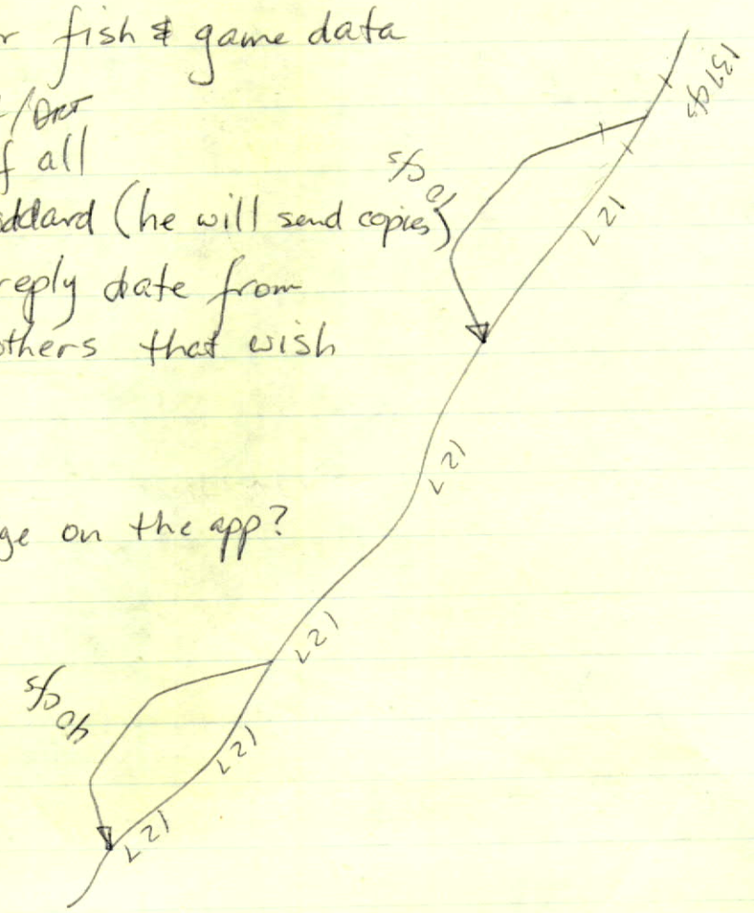
Herb Pollard - State Fishery Manager since 1975

→ Record open for fish & game data

→ We will send/~~Dec~~ Provide list of all parties to Goddard (he will send copies) 15 days for reply date from Bennett & all others that wish to reply

→ Mouth to Bridge on the app?

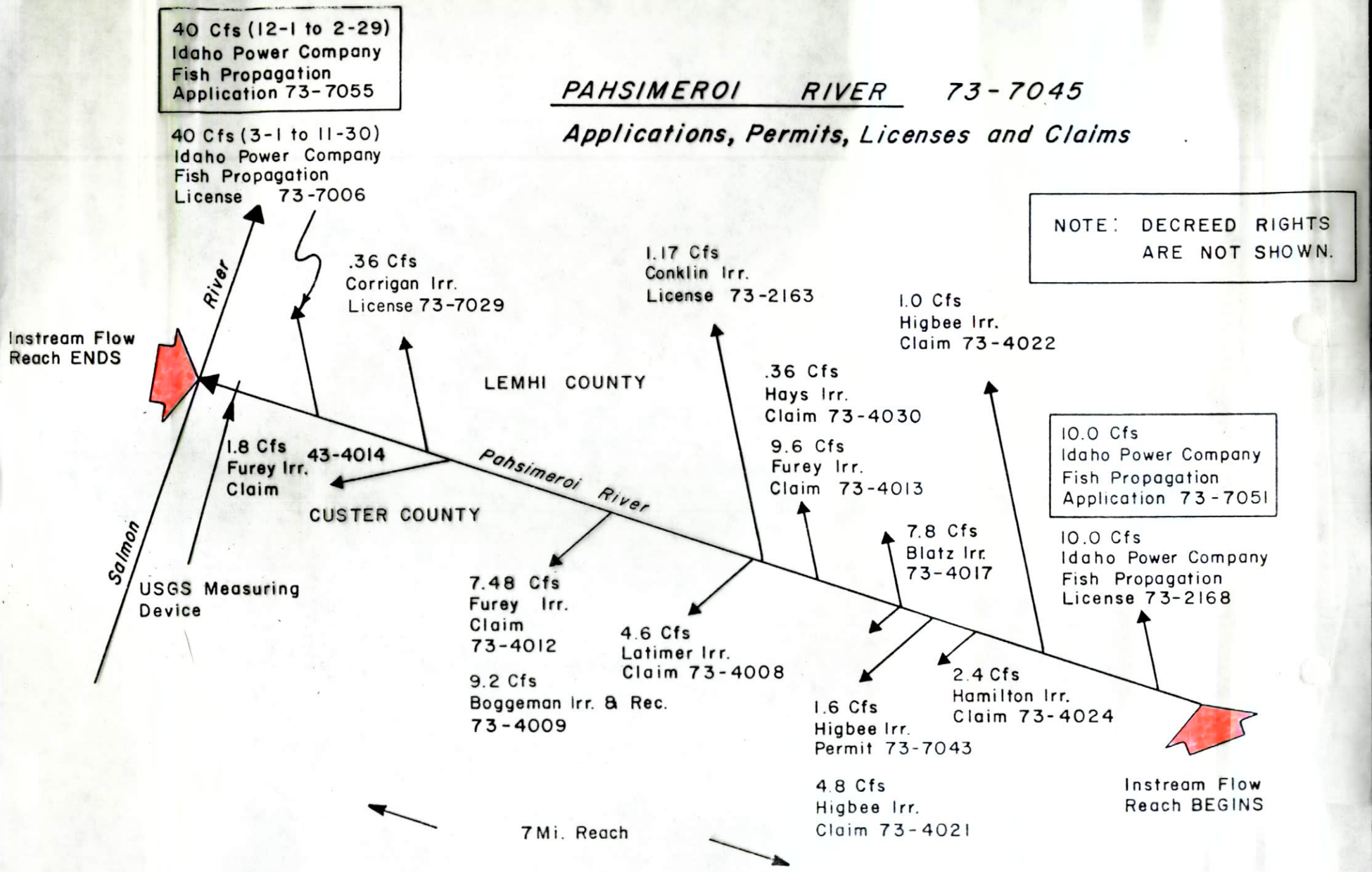
Perhaps a lowering of the upper point to the point of discharge of the upper Id Power right would work



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PAHSIMEROI RIVER 73-7045

Applications, Permits, Licenses and Claims



Board Requested Flows Cfs By Month –

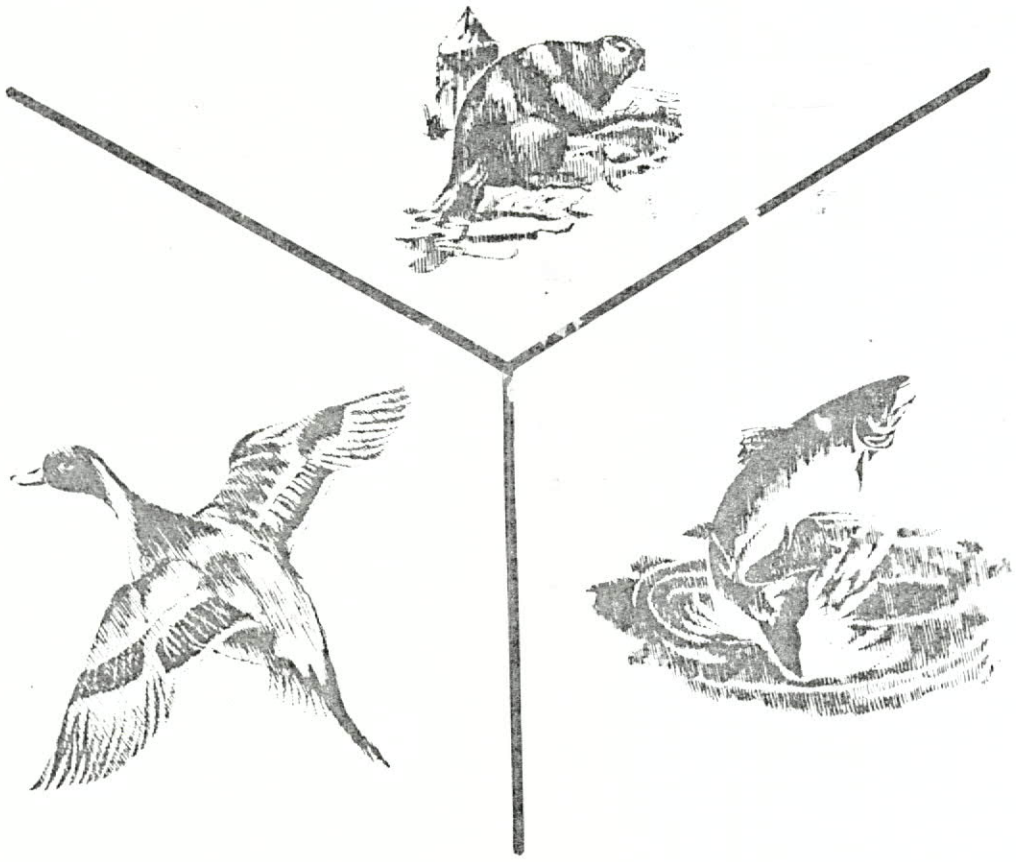
J	F	M	A	M	J	J	A	S	O	N	D
85	74	78	109	109	78	78	127	127	127	85	85

R. 22 E.
T. 14 N.
Sheet — 3
Begin
R. 21 E.
T. 15 N.
Sheet — 2
End
R. 20 E.
T. 16 N.
SALMON
CHALLIS

STREAM RESOURCE MAINTENANCE

FLOW STUDIES

1976



DEPARTMENT OF WATER RESOURCES

IDAHO FISH & GAME

DEMATERIALIZED























































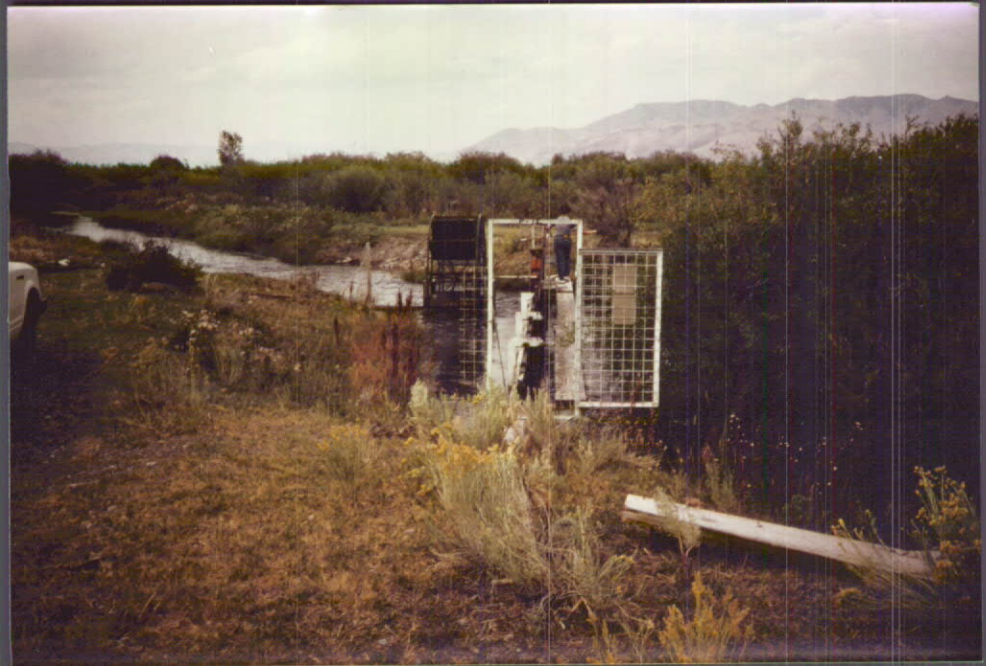


















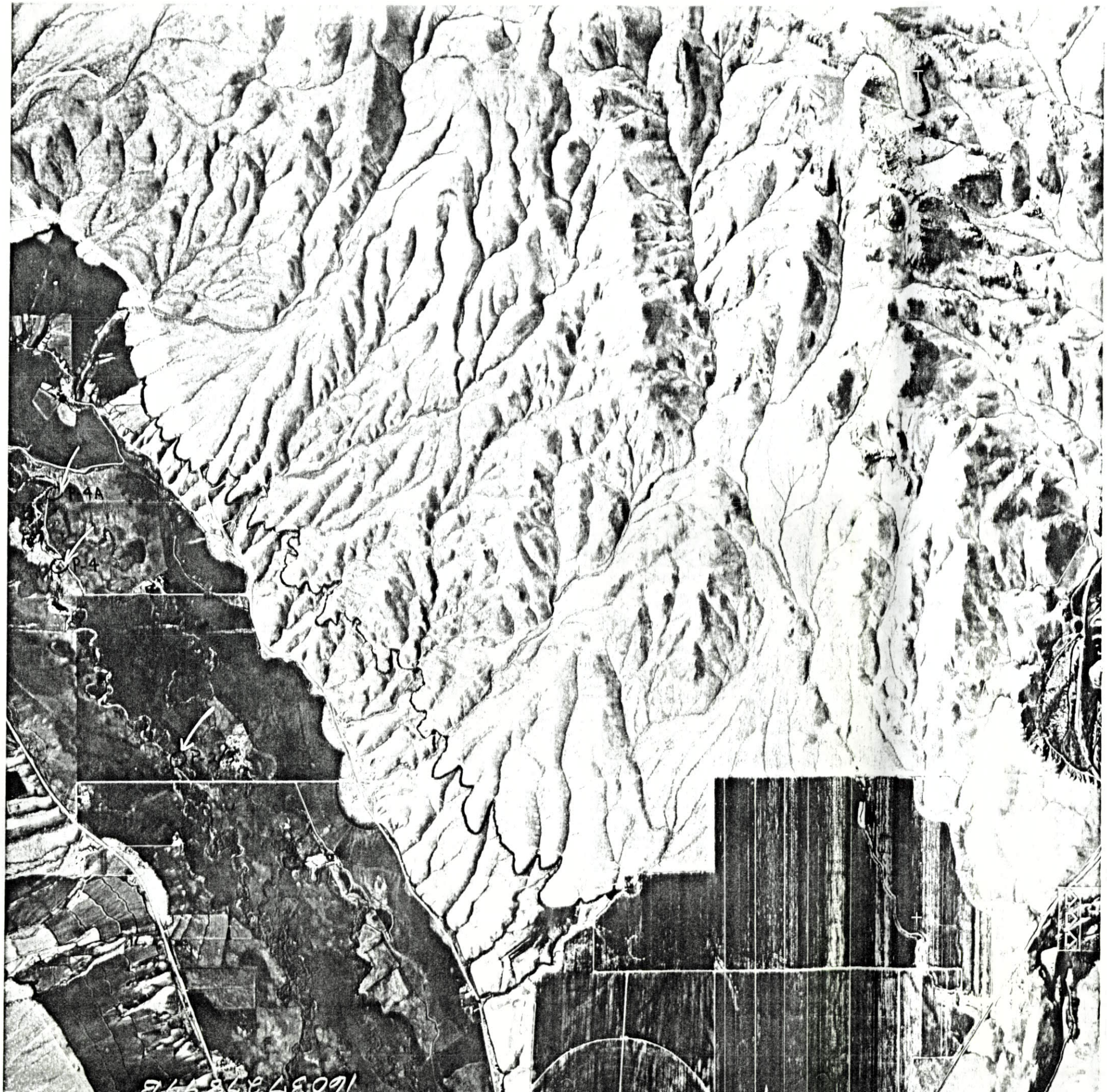




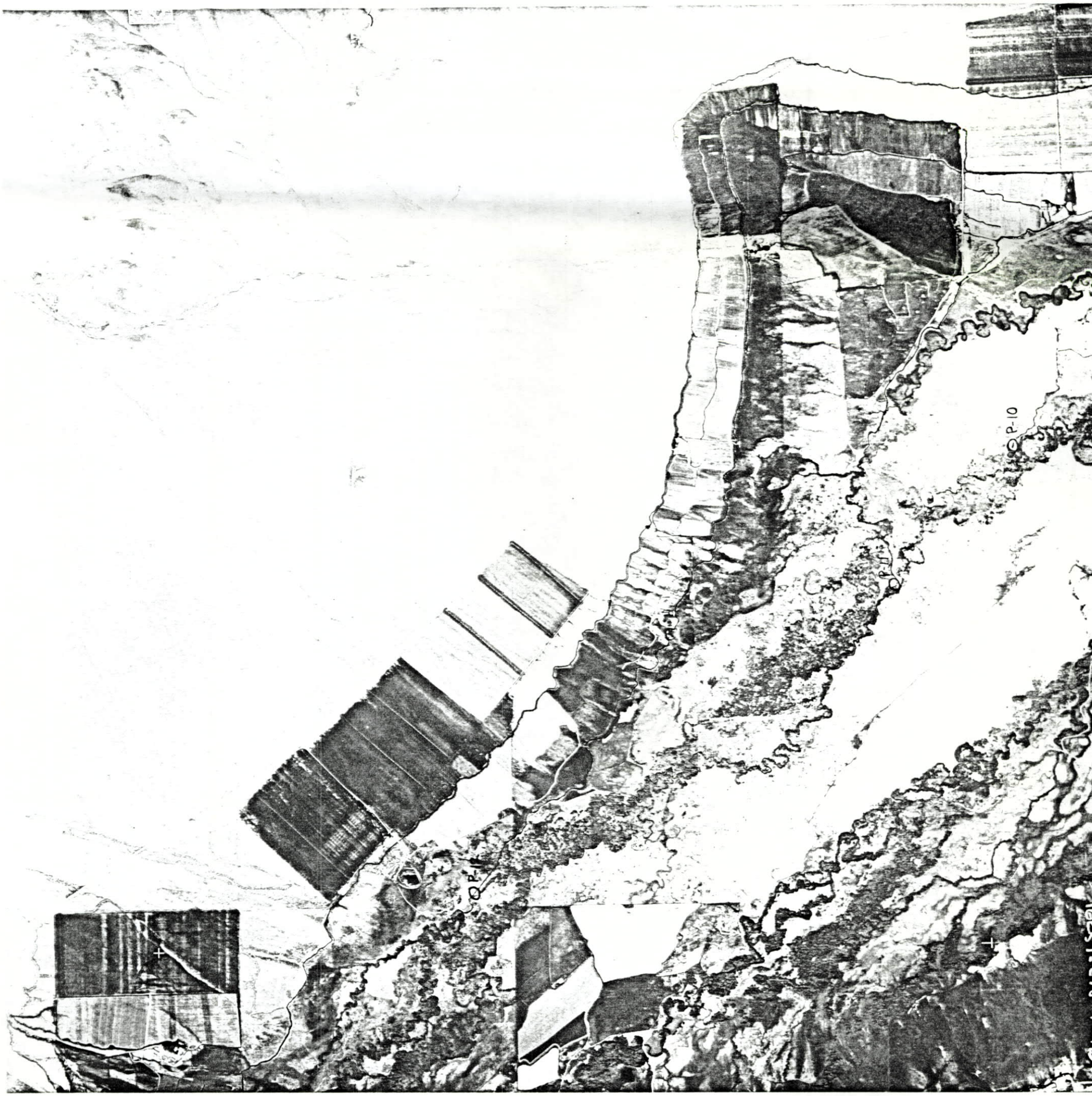


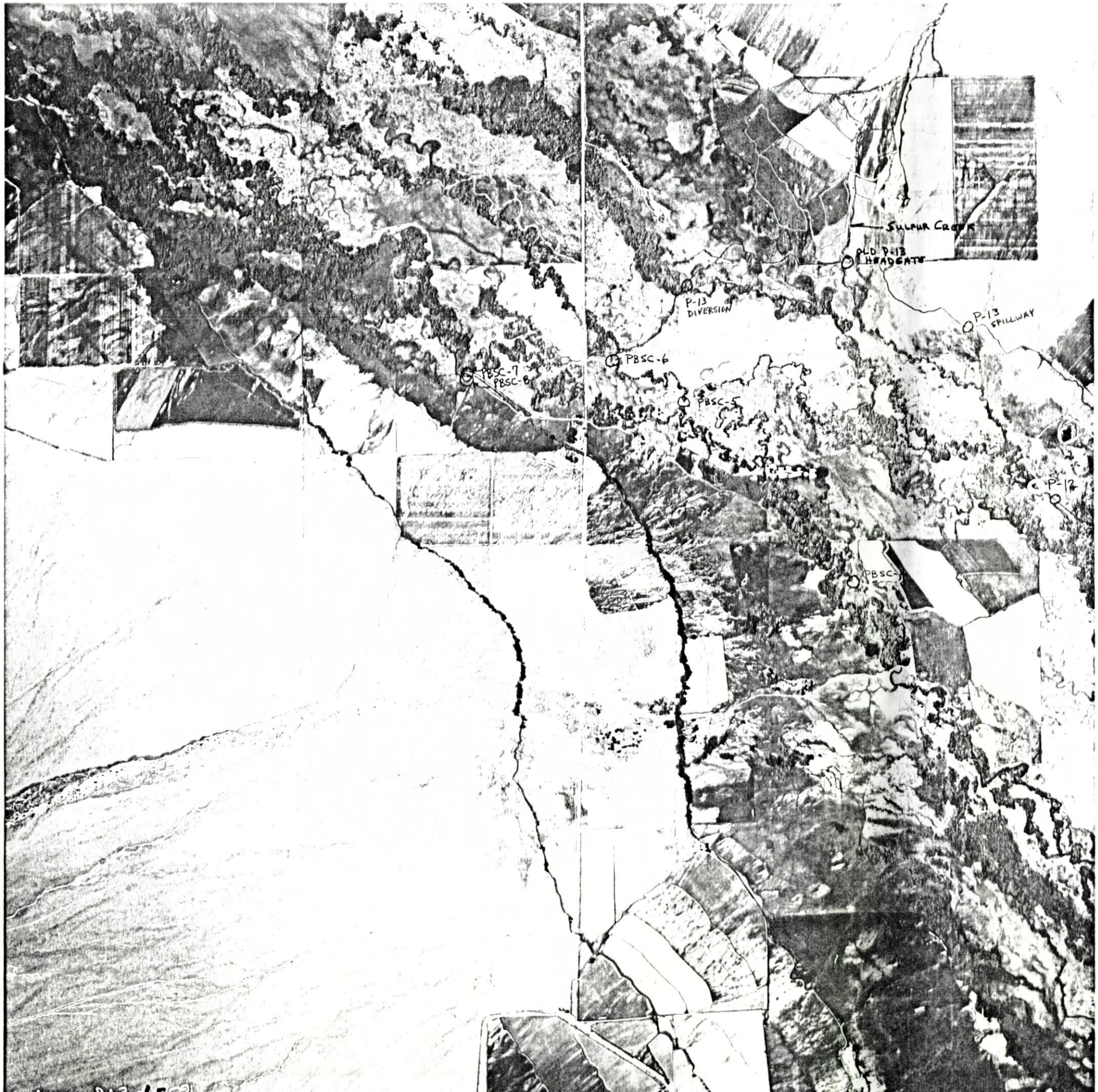

DOWTON LANE
DOWTON RANCH
ROAD


P. 9

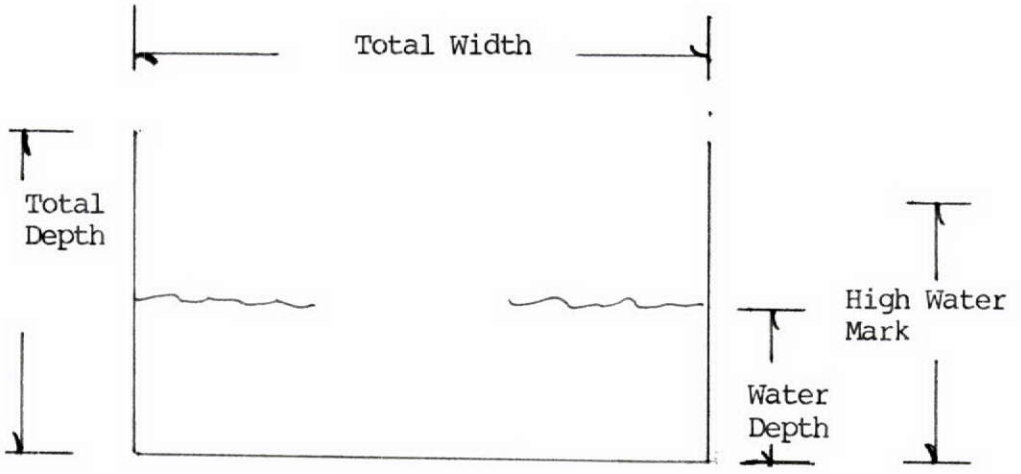

P4A
P4


PBSC-3
P-9
OPBSC-2
P-8A
OPBSC-1

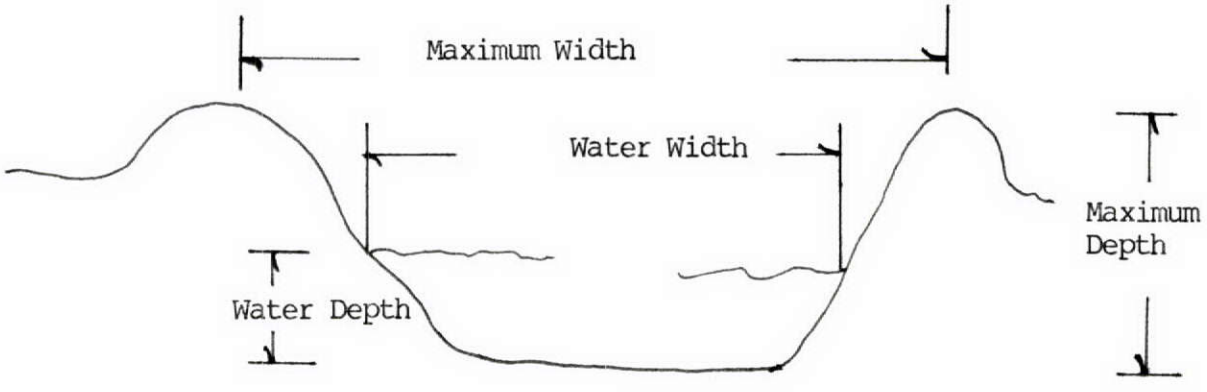

OP-10
OP-11


SULPHUR CREEK
PLD P-13 HEADGATE
P-13 DIVERSION
P-13 SPILLWAY
PBSC-6
PBSC-7
PBSC-8
PBSC-5
P-12
PBSC-4

HEADGATE MEASUREMENT METHOD



IRRIGATION DITCH MEASUREMENT METHOD



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 73-07045

Priority: January 3, 1980 Minimum Instream Flow: 74.00 CFS

This is to certify, that STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated December 19, 1979; and has submitted Proof of Beneficial Use on January 16, 1991. A minimum stream flow in

PAHSIMEROI RIVER tributary to **SALMON RIVER**

has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE	
MINIMUM INSTREAM FLOW	01/01 to 12/31	45.00 CFS	Upper Reach
MINIMUM INSTREAM FLOW	01/01 to 12/31	74.00 CFS	Lower Reach

LOCATION OF REACHES:

Beginning of Upper Reach NWNW, Sec. 21, Township 15N, Range 21E
End of Upper Reach NWNW, Sec. 8, Township 15N, Range 21E

Beginning of Lower Reach NWNW, Sec. 8, Township 15N, Range 21E
End of Lower Reach Lot 3 (SWNW), Sec. 25, Township 16N, Range 20E
CUSTER County

CONDITIONS/REMARKS:

1. This right is subject to all prior water rights.
2. Use of water under this right shall be non-consumptive.
3. Use of water under this water right will be regulated by the watermaster of State Water District No. 73.
4. Upon the future findings and order of the Director that additional gauging stations are required to maintain the approved minimum stream flows of the Pahsimeroi River such measuring devices shall be permanently installed and maintained as specified by the Director.
5. The flow is divided into two reaches: 1) Lower Reach - 74.0 cfs from the confluence of the Pahsimeroi River and the Salmon River, upstream about 4 miles to the point of injection of Big Springs 2) Upper Reach - 45.0 cfs from the point of injection of Big Springs, upstream about 3 miles to the discharge point of the fish rearing and release ponds in the NWNW, S21, T15N, R21E.

OCT 31 1994

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 73-07045

CONDITIONS/REMARKS:

6. The Director retains jurisdiction to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.
7. The use of water under this right shall recognize all reasonable irrigation diversion practices on the Pahsimeroi River and tributaries in existence at the time of the filing of the application for permit on 12/12/79. Existing irrigation practices, for the purpose of this condition, are evidenced by maps, photographs, data and measurements referenced in the Amended Memorandum Decision and Order issued at the time of permit approval on 1/9/86. In particular, administration of this right shall not prevent such existing reasonable diversions of excess waters in addition to recorded rights if all recorded rights, excluding this right, are then satisfied. The watermaster of Water District 73 is not authorized to control, for the purpose of delivering water to fill this license, the diversion of water to any land irrigated under a valid water right from Pahsimeroi River and tributaries with a priority date earlier than the priority of this right.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 14TH day of OCTOBER, 1994.

Acting for R. Keith Higginson, Director

OCT 31 1994

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 73-7045 IN THE NAME OF IDAHO WATER RESOURCE BOARD	ORDER OF REINSTATEMENT

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before January 1, 1991; and,

WHEREAS, the Department notified the permit holder by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

WHEREAS, the Department notified the permit holder that the permit lapsed for failure of the permit holder to submit the proof of beneficial use; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting proof of beneficial use on January 16, 1991;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 73-7045 be REINSTATED and the priority advanced to January 3, 1980.

Dated this 25th day of February, 1991.

L. GLEN SAXTON, Chief
Water Allocation Bureau

OCT 31 1994

LEGISLATURE OF THE STATE OF IDAHO

Forty-eighth Legislature — Second Regular Session — 1986

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 110

BY RESOURCES AND ENVIRONMENT COMMITTEE

A CONCURRENT RESOLUTION

APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAM FLOW.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream for minimum stream flow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, no permit shall become finally effective until affirmatively acted upon by the Legislature.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the approved application for permit of the Water Resource Board to appropriate the unappropriated waters of the Pahsimeroi River for minimum stream flow purposes, which permit No. 73-7045 was approved by the Director of the Department of Water Resources in an amended memorandum decision and order dated January 9, 1986, authorizing the appropriation of seventy-four cubic feet per second on the reach of the Pahsimeroi River which extends from the confluence with the Salmon River in Lot 3, (SW 1/4, NW 1/4) Section 25, Twp. 16N, Rge. 20E, B.M. upstream about four (4) miles to the point of injection of Big Springs in the NW 1/4, NW 1/4, Section 8, Twp. 15N, Rge. 21E, B.M. and authorizing the appropriation of forty-five (45) cubic feet per second on the reach of the Pahsimeroi River which extends from the point of injection of Big Springs in the NW 1/4, NW 1/4, Section 8, Twp. 15N, Rge. 21E, B.M. upstream about three (3) miles to the discharge point of the fish-rearing and release ponds located in the NW 1/4, NW 1/4, Section 21, Twp. 15N, Rge. 21E, B.M. Custer and Lemhi Counties be, and the same is hereby approved subject to the conditions and limitations contained in the Director of the Department of Water Resources' amended memorandum decision and order dated January 9, 1986.

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE IDAHO WATER RESOURCE BOARD	AMENDED MEMORANDUM DECISION AND ORDER

On January 4, 1984, the Director of the Department of Water Resources (Department) issued a Memorandum Decision and Order approving application for water right permit No. 73-7045, subject to seven (7) specific conditions of approval.

On January 25, 1984, the Idaho Department of Fish and Game (Fish and Game) submitted a Request for Rehearing in the matter, based on objections to Conditions of Approval Nos. 2 and 6 in the Memorandum Decision and Order, which pertain to recognition of existing reasonable irrigation diversion practices, and to establishment of a periodic review of the permit or subsequent license by the Director.

On March 22, 1984, the Director issued an Order which denied the Request for Rehearing. In accordance with Section 42-1701A(4), Idaho Code, on April 18, 1984, Fish and Game appealed the matter to the Fourth Judicial District Court and sought removal of Conditions of Approval Nos. 2 and 6.

On April 30, 1984, Water District No. 73 filed a Notice of Cross Appeal, and Cross Petition for Judicial Review with the District Court and requested that in the event Conditions of Approval Nos. 2 and 6 are set aside, that the entire permit be set aside.

After the filing of the appeal and the cross appeal, the parties

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engaged in negotiations to settle the litigation. A Stipulated Agreement which includes modification of Conditions of Approval Nos. 2 and 6 was signed by all parties during the period January 3, 1986, through January 6, 1986. Consequently, on January 6, 1986, the District Court issued an Order Remanding Cause to the Idaho Department of Water Resources for the purpose of permitting the Department to modify and revise Conditions of Approval Nos. 2 and 6 in accordance with the Stipulated Agreement of the parties. For clarity, the entire modified memorandum decision and order is shown hereinafter, with modifications to Conditions of Approval Nos. 2 and 6 incorporated pursuant to the Stipulated Agreement.

BACKGROUND INFORMATION

On December 12, 1979, the Idaho Water Resource Board (Board) filed with the Department an application for permit to appropriate water to preserve a minimum stream flow in the Pahsimeroi River tributary to the Salmon River. The application was filed in accordance with the provisions of Chapter 15, Title 42, Idaho Code.

Notice describing the proposed appropriation and setting the time and place for the required hearing was published in the Challis Messenger, on June 12 and June 19, 1980.

Parties appearing in a formal capacity included representatives from the Board and Fish and Game, Mr. J. R. Bennetts representing the water users comprising Water District 73, and Mr. L. L. Anderson representing the Central Idaho Mining Association. Testimony was also presented by staff of the Department. Individuals appearing to present views and comments as public witnesses included Mr. Syd Dowton, Mr. Jimmie S. Dowton, Mr. Roy Ellis, Mr. Don O'Neal, Mr. Don Blatz, Mr. James N. Hawkins, and State Representatives Ray Infanger and Wayne E. Tibbitts.

After the hearing the Board requested the Department to withhold further action on the application, pending further investigation of existing water rights and the merits of the application. On November 8, 1980, the Board adopted guidelines to supplement the statutory requirements of the approval procedure. The guidelines provide for an informal public meeting to be conducted by the Board to evaluate the need for establishing a minimum stream flow.

Based on the guidelines, notice of an informal public meeting was advertised in the Challis Messenger and the Recorder Herald (Salmon), and all parties that earlier had shown an interest in the matter were mailed notice of the meeting. The meeting was conducted by the Board in Challis on November 18, 1981, and was attended by about 40 individuals. Board members present were provided with additional information and public comment regarding the proposed minimum stream flow.

On April 20, 1982, the Chairman of the Board amended the application by reducing the requested flow rates and by dividing the seven mile long reach into two sub-reaches. Notice describing this amended application and setting the time and place for another hearing was published in the Challis Messenger on August 19 and August 26, 1982, and in the Salmon Recorder Herald on September 9 and September 16, 1982. The Director of the Department, A. Kenneth Dunn, served as the hearing officer.

All parties that appeared in a formal capacity at the July 9, 1980, hearing were again represented at the September 24, 1982, hearing with the exception of Mr. L. L. Anderson, who did not appear. Formal testimony was again presented by the staff of the Department. Individuals appearing to present views and comments as public witnesses included Mr. Jimmie S. Dowton, Mr. Syd Dowton, Mr. Roy Ellis, and Mr. Larry Wymer, who represented Idaho Power Company.

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In addition, Mr. Rance Bare appeared as an expert witness at the request of Mr. Bennetts. The following issues were raised as relevant to this matter:

1. Will the proposed minimum stream flow interfere with other water rights and with existing water uses?

Water users in state Water District No. 73 expressed concern that establishment of a minimum stream flow would limit delivery of existing rights to the rates of diversion recorded in the decree or another water right document. The present practice of using excess flows as they occur during spring runoff was described as being necessary for the present irrigation systems and as having a beneficial effect of temporarily storing water which enhances stream flows during late summer and fall.

Concern was also expressed that all existing rights have not been recorded and cannot be protected if the minimum stream flow must be maintained.

2. Is the proposed minimum stream flow in the public interest as opposed to the private interest?

Concern was expressed that establishment of a minimum stream flow would prevent future development of the Pahsimeroi River and tributaries. Establishment of the minimum stream flow was also said not to be in the public interest because the primary purposes were described as helping a private corporation to meet its obligation to mitigate damage to anadromous fisheries resulting from its hydropower development on other rivers.

3. Is the minimum stream flow needed for the purposes requested and are the requested purposes authorized by the minimum stream flow law?

The requested rate of flow was questioned as being greater than that needed to protect the uses identified in the application. The Water District 73 water users questioned whether a minimum stream flow could be used to "establish" an anadromous fish run because the minimum stream flow statutes require the flow to be necessary for the "protection of fish and wildlife

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habitat, aquatic life, recreation, aesthetic beauty, navigation, transportation or water quality". (Section 42-1501, Idaho Code. Emphasis added.)

4. Are the flows requested capable of being maintained?

Concern was expressed that the rates of flow requested exceed those observed in the river, particularly in the upper stream reach.

5. Procedural issues.

Water District 73 water users questioned whether the Board had met its burden of proof in support of the application, and whether the Board had considered the request for filing the application within the time period established by law. Idaho Power Company requested that approval of the minimum stream flow request be subordinated to its two junior applications seeking to divert water for fish propagation purposes. Water District 73 water users objected to the subordination and questioned the Board's authority to grant all or part of a right held on behalf of the public to a private interest.

Based upon sworn testimony, documentation and public statements included in the record from the two hearings, and upon his understanding of the law, the Director of the Department finds the following Findings of Fact, and makes the following Conclusions of Law, and Order:

FINDINGS OF FACT

1. On December 11, 1979, Fish and Game requested the Board to apply for a minimum stream flow on the Pahsimeroi River. On December 12, 1979, pursuant to provisions of Chapter 15, Title 42, Idaho Code, the Board filed application for permit No. 73-7045 to appropriate a minimum stream flow in the Pahsimeroi River tributary to the Salmon River.

2. On April 20, 1982, the Board amended application for permit No. 73-7045 and now proposes to appropriate a minimum stream flow for two reaches in the Pahsimeroi River. The rate of flow in the lower reach, which extends

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from the confluence with the Salmon River in Lot 3 (SW1/4NW1/4) Sec. 25, Twp. 16N, Rge. 20E, B.M., upstream about 4 miles to the point where Big Springs enters the Pahsimeroi in the NW1/4NW1/4, Sec. 8, Twp. 15N, Rge. 21E, B.M., is 74 cubic feet per second. The rate of flow in the upper reach, which extends from the point where Big Springs enters the river upstream to the discharge outlet of the fish rearing and release ponds, located in the NW1/4NW1/4, Sec. 21, Twp. 15N, Rge. 21E, B.M., is 45 cubic feet per second.

3. Based upon testimony of the staff of the Department, it is found that various water rights are diverted from the Pahsimeroi River and tributaries upstream from and throughout the minimum stream flow reaches. These water rights are identified by permits, licenses, claims and decrees. In addition, unrecorded beneficial use water rights may be diverted upstream from and throughout the minimum stream flow reaches. Procedures are available to claim and have such rights recognized through summary supplemental adjudications.

4. Any right acquired under application for permit No. 73-7045 is for instream nonconsumptive use and will be subject to all vested water rights, permits and water right applications having priority dates earlier than December 12, 1979.

5. Based on the testimony of local water users and documentation in the record, it is found that excess irrigation flows are diverted from the Pahsimeroi River and applied to lands within the Pahsimeroi River Drainage Basin. It is found that in some instances the diversion of excess flows has the effect of providing temporary storage as groundwater which later returns to the river to increase stream flow during late summer and fall.

6. On April 7, 1982, the applicant adopted Policy Statement of Idaho Water Resource Board on Pahsimeroi River which included the following determination: "The historic manner of operation by those holding upstream,

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midstream and downstream water rights has been compatible with the high quality native and hatchery fishery."

7. Based upon testimony of Fish and Game and upon public interest testimony presented at the hearings and evidenced by letters officially noticed at the hearings, it is found that the maintenance of an anadromous fishery and a native trout fishery in the Pahsimeroi River is in the public interest.

8. Based upon testimony presented at the hearing, it is found that the benefits to be derived from the minimum stream flow will be enjoyed by members of the public as opposed to being limited to private use or enjoyment.

9. Based upon the testimony and exhibits presented at the hearing, including Fish and Game Exhibit 21, it is found that the minimum stream flows proposed by amended application No. 73-7045 are necessary to maintain salmon and steelhead spawning, migration, and rearing habitat in the river.

10. Based upon the testimony, documentation, and public statements comprising the record in this matter, it is found that the minimum instream flows proposed by amended application No. 73-7045 are necessary to maintain the existing trout passage, spawning and incubation habitat of the stream area in the two specified reaches.

11. Based upon testimony and evidence submitted, it is found that the flow requested in the application is the minimum stream flow required to preserve the existing unique characteristics of the stream for the public benefit in the two specified reaches, and is not the ideal or most desirable flow which could be utilized for that purpose.

12. The purpose of the proposed minimum stream flow appropriation is to maintain trout and salmon spawning, migration, and rearing habitat in the river.

13. Based upon testimony and evidence submitted concerning available flow measurement data, it is found that the minimum stream flows proposed for

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the Pahsimeroi River are usually, but not at all times, capable of being maintained.

14. Two applications for permit to appropriate waters from the Pahsimeroi River have been filed by the Idaho Power Company with priorities after December 12, 1979. Application No. 73-7051 is for 10.0 cubic feet per second for fish propagation purposes to be used at the fish rearing and release ponds in Sec. 21, Twp. 15N, Rge. 21E, B.M. This rate of flow is intended to be added to the existing 10 cubic feet per second water right for the ponds. Application No. 73-7055 is for 40 cubic feet per second for fish propagation purposes to be used at the fish egg taking facility, located within Sec. 25, Twp. 16N, Rge. 20E, B.M. This rate of flow is requested for the period from December 1 through February 29 annually, and is intended to complement the existing water right for the facility, which is valid from March 1 through November 30, annually.

ANALYSIS

The proposed minimum stream flow would not interfere with any existing water rights. However, the existence of a minimum stream flow could interfere with existing water diversion practices, since many of the irrigation diversions from the river are in excess at some times of the rates provided in the existing water rights of record. Porous soils and the fact that abundant river water supplies have traditionally been available in the vicinity of the minimum stream flow reaches, have combined to encourage water use significantly in excess of amounts allowed by licenses, permits, decrees and beneficial use rights. A significant amount of testimony and information in the record suggests that there are positive effects to the river through recharge of the shallow aquifer that results from application of irrigation water to lands within the Pahsimeroi River Drainage Basin. Due to the geology of the basin, it appears that water

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applied to certain lands within the basin in excess of consumptive needs of the crops, is transmitted to the river. The effect of this relationship is that some springs tributary to the river appear to have a greater flow than if no irrigation occurred. Therefore, the amount of water in the river and thus the instream values sought to be maintained by the proposed minimum stream flow are enhanced by irrigation of lands located within the topographic boundary of the Pahsimeroi River Basin.

If water rights on the Pahsimeroi are regulated by a watermaster, existing uses could be affected in two ways. First, diversions based on licenses, permits and decreed rights could be limited to the recorded amounts. Second, beneficial use rights could be shut off if any licenses, permits or decreed rights are not satisfied. Holders of beneficial use rights would be forced to have their rights decreed to allow delivery by the watermaster. Therefore, the existance of a minimum stream flow permit, which did not allow for these existing uses, could cause traditional diversions to be restricted, significantly affecting existing water uses.

The existing irrigation practices appear to enhance the stream values intended to be protected by the minimum stream flow and are in the public interest. Establishment of a minimum stream flow should in this case include conditions to prevent interference with such irrigation practices.

Idaho Power Company has asked that the minimum stream flow rights be subordinated to its two junior filings for fish propagation purposes. A review of the fish propagation filings shows that the filing for the upstream rearing facility would return essentially undiminished any water diverted to a point above the upper minimum stream flow reach. The filing for the downstream egg-taking facility complements an existing right for the same diversion rate by extending the annual period of use to include the entire year. The winter

month period added by the new filing is not normally the annual low flow period (IDWR Exhibit 2). Sufficient water is, therefore, available for the new filing, the minimum stream flow and other existing uses. Therefore, a need does not appear to exist to consider the subordination of the minimum stream flow to the junior filing nor to address the legal questions raised concerning authority to do so.

Evidence was provided at the hearings to demonstrate that the public interest will be served by establishing a minimum stream flow in the Pahsimeroi River. Minimum stream flows are needed to maintain salmon spawning, migration and habitat and to maintain the habitat and spawning areas for resident trout species. In addition, testimony was received that the minimum stream flow provides wildlife habitat and recreation values all of which are uses as defined within Section 42-1501, Idaho Code. The importance of these instream values is merely emphasized by the presence of the Idaho Power Company mitigation program for anadromous fish. While this program is funded by a private company, it exists because of the recognized public interest in maintaining and restoring anadromous fish populations. It is entirely proper to use the minimum stream flow law to protect the natural waterways needed for the mitigation program. For this reason, the purposes of the requested minimum stream flow are found to be within the scope of the minimum stream flow law.

Public interest is a dynamic factor subject to change as the needs and desires of the people in the Pahsimeroi River area and throughout Idaho evolve. A perpetual commitment of a significant amount of water to a use without a workable method of changing the terms of that use could at some future time adversely affect the public interest. Approval of a minimum stream flow for the Pahsimeroi River should provide for a periodic review of the continued public interest.

CONCLUSIONS OF LAW

1. The proposed minimum stream flow appropriation will not interefere with any vested water right, permit, or right under an application, having a priority date erarlier than December 12, 1979.

2. The proposed minimum stream flow appropriation is in the public, as opposed to private, interest.

3. The proposed minimum stream flow appropriation is necessary for steelhead and rainbow trout and salmon spawning, migration, and rearing habitat in the river.

4. The proposed minimum stream flow is the minimum flow required for the purposes cited in Conclusion of Law No. 3 and not the ideal or most desirable flow.

5. The proposed minimum stream flow is usually capable of being maintained in the requested reaches of the Pahsimeroi River.

6. Minimum stream flow application No. 73-7045 is senior in priority date to applications for permit Nos. 73-7051 and 73-7055 in the name of Idaho Power Company.

7. The Board's consideration of the minimum stream flow request represented by application No. 73-7045 was within the time period provided by law.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 73-7045 is APPROVED subject to the following conditions:

1. Upon the future finding and order of the Director that additional gauging stations are required to maintain the approved minimum stream flows of the Pahsimeroi River such measuring devices shall be permanently installed and maintained as specified by the Director.

2. The use of water under this permit shall recognize all reasonable irrigation diversion practices on the Pahsimeroi River and tributaries existing at the time application No. 73-7045 was filed (December 12, 1979). Existing irrigation practices, for the purpose of this condition, are evidenced by the following maps, photographs, data and measurements referenced below and incorporated herein by this reference, as well as by any appropriate additional evidence agreed to by the parties which may be subsequently obtained:

(1) 1980 Landsat satellite data for the Pahsimeroi River Basin registered upon Challis NE, Challis SE, May NW, May SW and May SE 1:24,000 orthophoto quadrangle maps depicting irriated acreage.

(2) Summary Hydrograph Data for Pahsimeroi River NR May Station 13302000 for the periods from January 1930 through December 1959 and May 1971 through December 1972.

(3) The results of the U.S.G.S. inflow/outflow study of the reach of the Pahsimeroi River from Dowton Lane to Burstedt Lane conducted May 21-24 and June 18-20, 1985, and any subsequent data which may be collected by the U.S.G.S. for the Pahsimeroi River Basin.

(4) Resource scale aerial photographs of the Pahsimeroi River Basin taken by agencies of the United States Government prior to December 12, 1979 depicting the number and location of water diversion structures.

(5) Photos, measurements or other reliable evidence or data depicting the physical features and capacities of the various water diversion structures within the Pahsimeroi River Basin from the mouth of the Pahsimeroi River to the Hooper Lane Bridge collected by a party to this proceeding.

In particular, administration of this permit shall not prevent such existing reasonable diversions of excess waters in addition to recorded rights

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if all recorded rights, excluding the right under this permit, are then satisfied. In this regard, the watermaster of Water District 73 is not authorized to control, for the purpose of delivering water to fill the right authorized under this permit, the diversion of water to any land irrigated under a valid water right from Pahsimeroi River and tributaries prior to December 12, 1979.

3. Proof of instream beneficial use of the minimum stream flow approriated shall be submitted in a manner approved by the Department on or before January 1, 1991. The proof submitted shall include at least three years of flow data for the water course and data to document usage in accordance with the purposes permitted. The frequency of data accumulation must be submitted to the Director for review and approval.

4. The use of water under this permit shall be nonconsumptive.

5. The use of water under this permit is subject to all prior rights.

6. The Director retains jurisdiction to review and amend any and all parameters of this permit and subsequent license upon his determination that the public interest is no longer served by the minimum stream flow as established. The Director may review the permit and subsequent license 15 years after issuance of either the permit or the license.

7. The application hereby approved by the Director shall be submitted to the Idaho Legislature by the fifth day of the current legislative session and the Director's approval shall not become finally effective until approved by the legislature pursuant to the procedure provided by Section 42-1503, Idaho Code.

Dated this 9th day of January, 1986.

A. KENNETH DUNN, Director

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE IDAHO WATER RESOURCE BOARD

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this the 9th day of January, 1986, a true and correct copy of the foregoing AMENDED MEMORANDUM DECISION AND ORDER was mailed postage prepaid to:

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R. John Insinger
Risch, Goss, Insinger and Salladay
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Linda D. Smith

LINDA D. SMITH
Receptionist
Idaho Department of Water Resources

COPY

NO. _____

FILED

A.M. _____ P.M. _____

JAN 6 1986

JOHN BASTIDA, Clerk
By DIANA AYRES
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO, DEPARTMENT OF FISH AND GAME, Petitioner-Appellant, vs. A. KENNETH DUNN, DIRECTOR, IDAHO DEPARTMENT OF WATER RESOURCES, IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE WATER RESOURCE BOARD, Respondent.	Case No. 84991 ORDER REMANDING CAUSE TO THE IDAHO DEPARTMENT OF WATER RESOURCES

The above cause having been appealed to this Court from the January 4, 1984 Memorandum Decision and Order of the Idaho Department of Water Resources, and the JOINT MOTION OF ALL PARTIES FOR ORDER OF REMAND having this date been filed in this Court and the Court having reviewed the motion and the STIPULATED AGREEMENT in support thereof, and there appearing good cause, it is HEREBY ORDERED:

1. That the cause be and is hereby remanded to the Idaho Department of Water Resources for the purpose of resolving the appeal in the manner agreed to in the STIPULATED AGREEMENT and specifically for the purpose of permitting the Department to

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modify and revise Conditions No. 2 and 6 of its MEMORANDUM DECISION AND ORDER of January 4, 1984, in accordance with the STIPULATED AGREEMENT of the parties.

2. That each party to this action shall bear its own costs and attorney fees.

DATED this 16 day of January, 1986.

D. DUFF McKEE

D. Duff McKee
District Judge

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A.M. P.M.
JAN 6 1986
JOHN BASTIDA, Clerk
By DIANA AYRES
DEPUTY

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO, DEPARTMENT OF FISH AND GAME, Petitioner-Appellant, vs. A. KENNETH DUNN, DIRECTOR, IDAHO DEPARTMENT OF WATER RESOURCES, IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE WATER RESOURCE BOARD, Respondent.	Case No. 84991 JOINT MOTION OF ALL PARTIES FOR ORDER OF REMAND

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COME NOW, all parties to this action, by and through their respective undersigned attorneys of record, and jointly move the court, pursuant to Rule 32, I.A.R., for entry of an order remanding this action to the Director of the Idaho Department of Water Resources for the purpose of modifying his Memorandum Decision and Order of January 4, 1984, In the Matter of Application For Permit No. 73-7045 To Establish a Minimum Stream Flow In The Pahsimeroi River In the Name of the Idaho Water Resource Board, to conform with the provisions of the STIPULATED AGREEMENT executed by all parties to this appeal. This STIPULATED AGREEMENT was negotiated by all parties in order to resolve all issues on this appeal. An original of the STIPULATED AGREEMENT is appended hereto and is incorporated herein as support for this motion. This motion is also based upon the pleadings and other matters of record filed herein.

DATED this 6th day of January, 1986.

Stephen V. Goddard
Attorney for Petitioner-Appellant

Stephen Goddard

Phillip J. Rassier
Attorney for Department of Water Resources

Phillip J. Rassier

Kenneth C. Howell
Attorney for Water Resource Board

Kenneth C. Howell

R. John Insinger
Attorney for Cross-Appellant/ Cross Petitioner

R. John Insinger

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COPY
NO. _____
FILED
A.M. _____ P.M. _____
JAN 6 1986
JOHN BASTIDA, Clerk
By DIANA AYRES
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO, DEPARTMENT OF FISH AND GAME, Petitioner-Appellant, vs. A. KENNETH DUNN, DIRECTOR, IDAHO DEPARTMENT OF WATER RESOURCES, IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE WATER RESOURCE BOARD, Respondent.	Case No. 84991 STIPULATED AGREEMENT

This Agreement is entered into by and among the parties to the above-captioned appeal pending before the district court. The parties include the Idaho Department of Fish and Game (Fish and Game), the Idaho Water Resource Board (Board), the Idaho Department of Water Resources (Water Resources), Water District No. 73 for the Pahsimeroi River, State of Idaho (District), and certain District members in their individual capacities.

RECITALS

1. In response to a request by Fish and Game, the Board on December 12, 1979, filed with Water Resources an application for permit No. 73-7045 to appropriate water to preserve a minimum

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stream flow in the Pahsimeroi River in accordance with the provisions of Chapter 15, Title 42, Idaho Code.

2. On January 4, 1984, Water Resources issued its Memorandum Decision and Order approving permit No. 73-7045, upon conditions, after having held two formal hearings on the application and after the Board had conducted an informal public meeting on the application.

3. On April 18, 1984, Fish and Game appealed from the Memorandum Decision and Order and sought removal of conditions No. 2 and 6 of the approved permit.

4. On April 30, 1984, the District filed its Notice of Cross Appeal, and Cross Petition for Judicial Review with the district court and requested that in the event conditions 2 and 6 of the permit are set aside, that the entire permit be set aside.

5. Since the filing of the appeal and the cross-appeal, the parties have been engaged in negotiations to settle the litigation.

6. The parties desire to enter into the following Agreement to resolve all issues on appeal in this proceeding before the district court.

IN CONSIDERATION OF THE PROMISES STATED, THE PARTIES AGREE AS FOLLOWS:

1. The proceeding on appeal to the district court shall be remanded to Water Resources for the purpose of modifying the Memorandum Decision and Order of January 4, 1984, in the following manner:

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(a) Condition No. 2, on page nine of the Memorandum Decision and Order, is modified to read as follows:

> 2. The use of water under this permit shall recognize all reasonable irrigation diversion practices on the Pahsimeroi River and tributaries existing at the time application No. 73-7045 was filed (December 12, 1979). Existing irrigation practices, for the purpose of this condition, are evidenced by the following maps, photographs, data and measurements referenced below and incorporated herein by this reference, as well as by any appropriate additional evidence agreed to by the parties which may be subsequently obtained:
>
> (1) 1980 Landsat satellite data for the Pahsimeroi River Basin registered upon Challis NE, Challis SE, May NW, May SW and May SE 1:24,000 orthophoto quadrangle maps depicting irrigated acreage.
>
> (2) Summary Hydrograph Data for Pahsimeroi River NR May Station 13302000 for the periods from January 1930 through December 1959 and May 1971 through December 1972.
>
> (3) The results of the U.S.G.S. inflow/outflow study of the reach of the Pahsimeroi River from Dowton Lane to Burstedt Lane conducted May 21-24 and June 18-20, 1985, and any subsequent data which may be collected by the U.S.G.S. for the Pahsimeroi River Basin.
>
> (4) Resource scale aerial photographs of the Pahsimeroi River Basin taken by agencies of the United States Government prior to December 12, 1979 depicting the number and location of water diversion structures.
>
> (5) Photos, measurements or other reliable evidence or data depicting the physical features and capacities of the various water diversion structures within the Pahsimeroi River Basin from the mouth of the Pahsimeroi River to the Hooper Lane Bridge collected by a party to this proceeding.
>
> In particular, administration of this permit shall not prevent such existing reasonable diversions of excess waters in addition to recorded rights if all recorded rights, excluding the right under

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this permit, are then satisfied. In this regard, the watermaster of Water District 73 is not authorized to control, for the purpose of delivering water to fill the right authorized under this permit, the diversion of water to any land irrigated under a valid water right from Pahsimeroi River and tributaries prior to December 12, 1979.

(b) Condition 6, on page ten of the Memorandum Decision and Order, is modified to read as follows:

> 6. The Director retains jurisdiction to review and amend any and all parameters of this permit and subsequent license upon his determination that the public interest is no longer served by the minimum stream flow as established. The Director may review the permit and subsequent license 15 years after issuance of either the permit or the license.

2. All parties agree not to oppose the minimum stream flow permit upon its presentation to the Idaho Legislature for approval.

3. Entry into this Agreement does not constitute a waiver by any of the parties of any legal right or position they may assert in any proceeding other than this instream flow proceeding involving water right permit No. 73-7045.

4. Upon implementation of this Agreement through modification of permit No. 73-7045 the parties shall move to dismiss any appeal or cross-appeal they have pending before the district court in this proceeding.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date following their respective signatures.

IDAHO DEPARTMENT OF FISH AND GAME

By _____
JERRY M. CONLEY
Director

1-6-86
Date

IDAHO WATER RESOURCE BOARD

By _____
GENE M. GRAY
Chairman

01-03-86
Date

WATER DISTRICT NO. 73 AND CERTAIN DISTRICT MEMBERS IN THEIR INDIVIDUAL CAPACITIES

By _____
R. JOHN INSINGER
Attorney for District and Named Individuals

1/6/86
Date

IDAHO DEPARTMENT OF WATER RESOURCES

By _____
A. KENNETH DUNN
Director

01/06/86
Date

ADDITIONAL SIGNATURES ON FOLLOWING PAGE

IDAHO DEPARTMENT OF FISH AND GAME

By_____
JERRY M. CONLEY
Director

_____
Date

IDAHO WATER RESOURCE BOARD

By_____
GENE M. GRAY
Chairman

_____
Date

WATER DISTRICT NO. 73 AND CERTAIN DISTRICT MEMBERS IN THEIR INDIVIDUAL CAPACITIES

By Linton E. Wright Jr.
Chairman

By James R. Bennetts
JAMES R. BENNETTS
Attorney for District and Names Individuals

By_____
R. JOHN INSINGER
Attorney for District and Named Individuals

_____
Date

IDAHO DEPARTMENT OF WATER RESOURCES

By_____
A. KENNETH DUNN
Director

_____
Date

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DEC 17 1985

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE IDAHO WATER RESOURCE BOARD.	Case No. 84991 NOTICE OF LODGING OF TRANSCRIPT

TO: All parties and their counsel.

YOU ARE HEREBY NOTIFIED, pursuant to I.R.C.P. 83(o), that the transcript of the testimony and proceedings of the July 9, 1980 and September 24, 1982 hearing before the Department of Water Resources in this matter has been lodged with the Department in accordance with I.R.C.P. 83(k)(1).

YOU ARE FURTHER NOTIFIED, that upon payment of the preparation fee by the appellant at the rate of $2.00 per page for 340 pages, the parties may pick up a copy of the transcript from the Department or request that one be mailed to them;

THAT the parties have twenty (20) days from the date of this notice in which to file any objection to the transcription;

THAT any objections to the transcript shall be made in writing to the Idaho Department of Water Resources and shall be determined thereby;

THAT upon failure of the parties to file any objection within such twenty (20) day period, the transcript shall be deemed settled;

THAT within five (5) days of the settlement of the transcript the Department shall file with the district court to which appeal

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has been made the original of the transcript together with a copy of the agency record and all exhibits offered or admitted in the proceeding.

DATED this 18th day of January, 1985.

A. KENNETH DUNN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of January, 1985, I mailed a true and correct copy of the foregoing NOTICE OF LODGING OF TRANSCRIPT by placing it in the United States mail, first class, postage prepaid, addressed to the following:

Steven V. Goddard
Deputy Attorney General
Department of Fish & Game
P.O. Box 25
Boise, Idaho 83707

James R. Bennetts
Attorney at Law
P.O. Box 36
Challis, Idaho 83226

R. John Insinger
RISCH, GOSS, INSINGER & SALLADAY
Attorneys at Law
407 West Jefferson
Boise, Idaho 83702

HAND DELIVERED:
Idaho Water Resource Board
450 West State Street
Boise, Idaho 83720

PHILLIP J. RASSIER
Deputy Attorney General
Department of Water Resources

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BEFORE THE DEPARTMENT OF WATER RESOURCE

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE IDAHO WATER RESOURCE BOARD	ORDER

WHEREAS, on January 5, 1984, the Director of the Department of Water Resources mailed a copy of the Memorandum Decision and Order approving Application for Permit No. 73-7045 to all parties of record; and,

WHEREAS, on January 25, 1984, the Department of Fish and Game filed a petition with the Director entitled "Petition for Rehearing" which requests oral argument before the Director; and,

WHEREAS, the petition for rehearing stated the petitioner did not desire to present new or additional evidence; and,

WHEREAS, Rule 3,5 of the Department's promulgated Rules of Practice and Procedure requires that the nature and quantity of new or additional evidence to be offered shall be specifically set forth in the Petition for Rehearing; and,

WHEREAS, on January 30, 1984, James R. Bennetts filed an answer to the Petition for Rehearing objecting to its approval; and,

WHEREAS, the Director has considered all the evidence submitted including the points of law described in the Petition for Rehearing; and,

WHEREAS, no useful purpose would be served by the granting of either oral agrument or a rehearing;

IT IS, THEREFORE, HEREBY ORDERED that the Petition for Rehearing be and is DENIED.

Dated this 22nd day of March, 1984.

A. KENNETH DUNN
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE IDAHO WATER RESOURCE BOARD

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this the 26th day of March, 1984, a true and correct copy of the foregoing ORDER was mailed postage prepaid to:

Ralph Hatch
Ellis, ID 83235

Gene M. Gray
Route 1, Box 46-A
Payette, ID 83661

M. Reed Hansen
Route 5, Box 213
Idaho Falls, ID 83401

James Shawver
Eden, ID 83325

Richard W. Wagner
650 21st Avenue
Lewiston, ID 83501

Sally L. Cupan
515 S. Boyer Avenue
Sandpoint, ID 83864

J.D. Williams
P.O. Box 191
Preston, ID 83263

Scott W. Reed
P.O. Box A
Coeur d'Alene, ID 83814

Syd Dowton
Salmon, ID 83467

Jimmie L. Dowton
May, ID 83253

Roy Ellis
Ellis, ID 83235

Dow O'Neal
May, ID 83253

John Buggenkamp
May, ID 83253

Vaughn Higbee
Ellis, ID 83235

Louie Demrest
Salmon, ID 83467

Franklin Jones
4209 Catalpa Drive
Boise, ID 83703

Ray Infanger
Salmon, ID 83467

Dave Hanson
Idaho Department of Fish and Game
Statehouse Mail
Boise, ID 83720

Don Blatz
Ellis, ID 83235

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Charles Kesl
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Ray Horn
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Wayne E. Tibbitts
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Donald R. Kramer
Idaho Water Resource Board
Statehouse
Boise, ID 83720

Rita I. Fleck

RITA I. FLECK
Secretary/Records Manager
Idaho Department of Water Resources

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JAN 25 1984
Department of Water Resources

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STEPHEN V. GODDARD
WILLIAM B. DILLON, III
Deputy Attorneys General
Idaho Department of Fish and Game
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BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE IDAHO WATER RESOURCE BOARD	PETITION FOR REHEARING

COMES NOW THE Idaho Department of Fish and Game, pursuant to Rule 11, Practice and Procedure Rules and Regulations of the Department of Water Resources, and petitions the Director for a rehearing upon the above application. The grounds for this petition are as follows:

1. Subparagraph 2 of the order dated January 4, 1984, states that the use of water under this permit shall recognize all reasonable irrigation diversion practices on the Pahsimeroi River and tributaries existing at the time application No. 73-7045 was filed. That portion is in violation of Title 42 of the Idaho Code and Idaho Common Law

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concerning water rights in that it has the effect of treating those unnamed "irrigation diversion practices" as actual vested water right, permits, or rights under application. This totally flies in the face of Idaho water law because it gives priority to mere irrigation diversion practices before the irrigators have even made claims of water rights or applications for permits.

2. Paragraph 6 of the order states that the Director retains jurisdiction to review and amend the permit and license, that the permit and license will be reviewed after ten years or upon a petition of at least 50 percent of the registered voters in the Pahsimeroi River basin. There is absolutely no provision in Chapter 15, Title 42, Idaho Code, for reviews of minimum stream flow permits and licenses. Reviews of these permits and licenses would totally frustrate the purpose of minimum stream flows. Idaho Code Section 42-1505 states, in part, "[T]he director shall consider any approved application for appropriation of minimum stream flow filed under the provisions of this act as a water right with priority date as of date of receipt in the office of the director of a complete application." (emphasis added) A minimum stream flow is exactly that--a water right. There is no authority in Idaho law that a vested water right may be periodically reviewed by the Director or that the public can petition for this review at its whim. This would allow minimum stream flows to constantly be

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challenged. One purpose of minimum stream flows is to protect Idaho water from interstate diversion, a purpose that can hardly be met if minimum stream flows are subject to perpetual challenge.

3. The petitioner does not desire to present new or additional evidence at a rehearing but does desire oral argument on this petition. Because proposed findings of fact were not requested, it was necessary for the Department of Fish and Game to petition for a rehearing in order to correct the errors in the January 4, 1984 order.

DATED This 25th day of January, 1984.

WILLIAM B. DILLON, III
Deputy Attorney General
Attorney for Petitioner

JIM JONES
Attorney General
State of Idaho
Statehouse, Room 210
Boise, Idaho 83720
Telephone: (208) 334-2400

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 25th day of January, 1984, a true and correct copy of the PETITION FOR REHEARING was mailed postage prepaid to:

Ralph Hatch
Ellis, Idaho 83235

Don Blatz
Ellis, Idaho 83235

Gene M. Gray
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BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE IDAHO WATER RESOURCE BOARD	MEMORANDUM DECISION AND ORDER

On December 12, 1979, the Idaho Water Resource Board (Board) filed with the Department of Water Resources (Department) an application for permit to appropriate water to preserve a minimum stream flow in the Pahsimeroi River tributary to the Salmon River. The application was filed in accordance with the provisions of Chapter 15, Title 42, Idaho Code.

Notice describing the proposed appropriation and setting the time and place for the required hearing was published in the Challis Messenger, June 12 and June 19, 1980.

Parties appearing in a formal capacity included representatives from the Board and the Idaho Department of Fish and Game, Mr. J. R. Bennetts representing the water users comprising Water Distict 73, and Mr. L. L. Anderson representing the Central Idaho Mining Association. Testimony was also presented by staff of the Department. Individuals appearing to present views and comments as public witnesses included Mr. Syd Dowton, Mr. Jimmie S. Dowton, Mr. Roy Ellis, Mr. Don O'Neal, Mr. Don Blatz, Mr. James N. Hawkins, and State Representatives Ray Infanger and Wayne E. Tibbitts.

After the hearing the Board requested the Department to withhold further action on the application, pending further investigation of existing water rights and the merits of the application. On November 8, 1980, the Board adopted guidelines to supplement the statutory requirements of the approval procedure. The guidelines provide for an informal public meeting to be conducted by the Board to evaluate the need for establishing a minimum stream flow.

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Based on the guidelines, notice of an informal public meeting was advertised in the Challis Messenger and Recorder Herald (Salmon), and all parties that earlier had shown an interest in the matter were mailed notice of the meeting. The meeting was conducted by the Board in Challis on November 18, 1981, and was attended by about 40 individuals. Board members present were provided with additional information and public comment regarding the proposed minimum stream flow.

On April 20, 1982, the Chairman of the Board amended the application by reducing the requested flow rates and by dividing the seven mile long reach into two sub-reaches. Notice describing this amended application and setting the time and place for another hearing was published in the Challis Messenger on August 19 and August 26, 1982, and in the Salmon Recorder Herald on September 9 and 16, 1982. The Director of the Department, A. Kenneth Dunn, served as the hearing officer.

All parties that appeared in a formal capacity at the July 9, 1980, hearing were again represented at the September 24, 1982, hearing with the exception of Mr. L. L. Anderson, who did not appear. Formal testimony was again presented by the staff of the Department. Individuals appearing to present views and comments as public witnesses included Mr. Jimmie S. Dowton, Mr. Syd Dowton, Mr. Roy Ellis, and Mr. Larry Wymer, who represented Idaho Power Company. In addition, Mr. Rance Bare appeared as an expert witness at the request of Mr. Bennetts. The following issues were raised as relevant to this matter:

1. Will the proposed minimum stream flow interfere with other water rights and with existing water uses?

Water users in state Water District No. 73 expressed concern that establishment of a minimum stream flow would limit delivery of existing rights to the rates of diversion recorded in the decree or other water right document. The present practice of using excess flows as they occur during spring runoff was described as being necessary for the present irrigation systems and as having a beneficial effect of temporarily storing water which enhances stream flows during late summer and fall.

Concern was also expressed that all existing rights have not

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been recorded and cannot be protected if the minimum stream flow must be maintained.

2. Is the proposed minimum stream flow in the public interest as opposed to the private interest?

Concern was expressed that establishment of a minimum stream flow would prevent future development of the Pahsimeroi River and tributaries. Establishment of the minimum stream flow was also said not to be in the public interest because the primary purposes were described as helping a private corporation to meet its obligation to mitigate damage to anadromous fisheries resulting from its hydropower development on other rivers.

3. Is the minimum stream flow needed for the purposes requested and are the requested purposes authorized by the minimum stream flow law?

The requested rate of flow was questioned as being greater than that needed to protect the uses identified in the application. The Water District 73 water users questioned whether a minimum stream flow could be used to "establish" an anadromous fish run because the minimum stream flow statutes require the flow to be necesary for the preservation of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation, transportation or water quality". (Section 42-1504, Idaho Code. Emphasis added.)

4. Are the flows requested capable of being maintained? Concern was expressed that the rates of flow requested exceed those observed in the river, particularly in the upper stream reach.

5. Procedural issues.

Water District 73 water users questioned whether the Board had met its burden of proof in support of the application, and whether the Board had considered the request for filing the application within the time period established by law. Idaho Power Company requested that approval of the minimum stream flow request be subordinated to its two junior applications seeking to divert water for fish propagation purposes. Water District 73 water users objected to the subordination and questioned the Board's authority to grant all or part of a right held on behalf of the public to a private interest.

all vested water rights, permits, and water right applications having priority dates earlier than December 12, 1979.

5. Based on the testimony of local water users and documentation in the record, it is found that excess irrigation flows are diverted from the Pahsimeroi River and applied to lands within the Pahsimeroi River Drainage Basin. It is found that in some instances the diversion of excess flows has the effect of providing temporary storage as groundwater which later returns to the river to increase stream flow during late summer and fall.

6. On April 7, 1982, the applicant adopted Policy Statement of Idaho Water Resource Board on Pahsimeroi River which included the following determination: "The historic manner of operation by those holding upstream, midstream and downstream water rights has been compatible with the high quality native and hatchery fishery."

7. Based upon testimony of Idaho Department of Fish and Game and upon public interest testimony presented at the hearings and evidenced by letters officially noticed at the hearings, it is found that the maintenance of an anadromous fishery and a native trout fishery in the Pahsimeroi River is in the public interest.

8. Based upon testimony presented at the hearing, it is found that the benefits to be derived from the minimum stream flow will be enjoyed by members of the public as opposed to being limited to private use or enjoyment.

9. Based upon the testimony and exhibits presented at the hearing, including Department of Fish and Game exhibit #21, it is found that the minimum stream flows proposed by amended application No. 73-7045 are necessary to maintain salmon and steelhead spawning, migration, and rearing habitat in the river.

10. Based upon the testimony, documentation, and public statements comprising the record in this matter, it is found that the minimum instream flows proposed by amended application No. 73-7045 are necessary to maintain the existing trout passage, spawning and incubation habitat of the stream area in the two specified reaches.

11. Based upon testimony and evidence submitted, it is found

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Based upon sworn testimony, documentation and public statements included in the record from the two hearings, and upon his understanding of the law, the Director of the Department finds the following Findings of Fact, and makes the following Conclusions of Law, and Order:

FINDINGS OF FACT

1. On December 11, 1979, the Idaho Department of Fish and Game requested the Idaho Water Resource Board to apply for a minimum stream flow on the Pahsimeroi River. On December 12, 1979, pursuant to provisions of Chapter 15, Title 42, Idaho Code, the Idaho Water Resource Board filed application for permit No. 73-7045 to appropriate a minimum stream flow in the Pahsimeroi River tributary to the Salmon River.

2. On April 20, 1982, the Board amended application for permit No. 73-7045 and now proposes to appropriate a minimum stream flow for two reaches in the Pahsimeroi River. The rate of flow in the lower reach, which extends from the confluence with the Salmon River in Lot 3 (SW¼NW¼) Section 25, Twp. 16N, Rge. 20E, B.M., upstream about 4 miles to the point where Big Springs enters the Pahsimeroi in the NW¼NW¼, Sec. 8, Twp. 15N, Rge. 21E, B.M., is 74 cubic feet per second. The rate of flow in the upper reach, which extends from the point where Big Springs enters the river upstream to the discharge outlet of the fish rearing and release ponds, located in the NW¼NW¼, Sec. 21, Twp. 15N, Rge. 21E, B.M., is 45 cubic feet per second.

3. Based upon testimony of the staff of the Department, it is found that various water rights are diverted from the Pahsimeroi River and tributaries upstream from and throughout the minimum stream flow reaches. These water rights are identified by permits, licenses, claims and decrees. In addition, unrecorded beneficial use water rights may be diverted upstream from and throughout the minimum stream flow reaches. Procedures are available to claim and have such rights recognized through summary supplemental adjudications.

4. Any right acquired under application for permit No. 73-7045 is for instream nonconsumptive use and will be subject to

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that the flow requested in the application is the minimum stream flow required to preserve the existing unique characteristics of the stream for the public benefit in the two specified reaches, and is not the ideal or most desirable flow which could be utilized for that purpose.

12. The purpose of the proposed minimum stream flow appropriation is to maintain trout and salmon spawning, migration, and rearing habitat in the river.

13. Based upon testimony and evidence submitted concerning available flow measurement data, it is found that the minimum stream flows proposed for the Pahsimeroi River are usually, but not at all times, capable of being maintained.

14. Two applications for permit to appropriate waters from the Pahsimeroi River have been filed by the Idaho Power Company with priorities after December 12, 1979. Application No. 73-7051 is for 10.0 cubic feet per second for fish propagation purposes to be used at the fish rearing and release ponds in Sec. 21, Twp. 15N, Rge. 21E. B.M. This rate of flow is intended to be added to the existing 10 cubic feet per second water right for the ponds. Application No. 73-7055 is for 40 cubic feet per second for fish propagation purposes to be used at the fish egg taking facility, located within Sec. 25, Twp. 16N, Rge. 20E., B.M. This rate of flow is requested for the period from December 1 through February 29 annually, and is intended to complement the existing water right for the facility, which is valid from March 1 through November 30, annually.

ANALYSIS

The proposed minimum stream flow would not interfere with any existing water rights. However, the existence of a minimum stream flow could interfere with existing water diversion practices, since many of the irrigation diversions from the river are in excess at some times of the rates provided in the existing water rights of record. Porous soils and the fact that abundant river water supplies have traditionally been available in the vicinity of the minimum stream flow reaches, have combined to encourage water use significantly in excess of amounts allowed by

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licenses, permits, decrees and beneficial use rights. A significant amount of testimony and information in the record suggests that there are positive effects to the river through recharge of the shallow aquifer that results from application of irrigation water to lands within the Pahsimeroi River Drainage Basin. Due to the geology of the basin, it appears that water applied to certain lands within the basin in excess of consumptive needs of the crops, is transmitted to the river. The effect of this relationship is that some springs tributary to the river appear to have a greater flow than if no irrigation occurred. Therefore, the amount of water in the river and thus the instream values sought to be maintained by the proposed minimum stream flow are enhanced by irrigation of lands located within the topographic boundary of the Pahsimeroi River Basin.

If water rights on the Pahsimeroi are regulated by a watermaster, existing uses could be affected in two ways. First, diversions based on licenses, permits and decreed rights could be limited to the recorded amounts. Second, beneficial use rights could be shut off if any licenses, permits or decreed rights are not satisfied. Holders of beneficial use rights would be forced to have their rights decreed to allow delivery by the watermaster. Therefore, the existence of a minimum stream flow permit, which did not allow for these existing uses, could cause traditional diversions to be restricted, significantly affecting existing water uses.

The existing irrigation practices appear to enhance the stream values intended to be protected by the minimum stream flow and are in the public interest. Establishment of a minimum stream flow should in this case include conditions to prevent interference with such irrigation practices.

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Idaho Power Company has asked that the minimum stream flow rights be subordinated to its two junior filings for fish propagation purposes. A review of the fish propagation filings shows that the filing for the upstream rearing facility would return essentially undiminished any water diverted to a point above the upper minimum stream flow reach. The filing for the downstream

egg-taking facility complements an existing right for the same diversion rate by extending the annual period of use to include the entire year. The winter month period added by the new filing is not normally the annual low flow period (IDWR Exhibit 2). Sufficient water is, therefore, available for the new filing, the minimum stream flow and other existing uses. Therefore, a need does not appear to exist to consider the subordination of the minimum stream flow to the junior filing nor to address the legal questions raised concerning authority to do so.

Evidence was provided at the hearings to demonstrate that the public interest will be served by establishing a minimum stream flow in the Pahsimeroi River. Minimum stream flows are needed to maintain salmon spawning, migration and habitat and to maintain the habitat and spawning areas for resident trout species. In addition, testimony was received that the minimum stream flow provides wildlife habitat and recreation values all of which are uses as defined within Section 42-1501, Idaho Code. The importance of these instream values is merely emphasized by the presence of the Idaho Power Company mitigation program for anadromous fish. While this program is funded by a private company, it exists because of the recognized public interest in maintaining and restoring anadromous fish populations. It is entirely proper to use the minimum stream flow law to protect the natural waterways needed for the mitigation program. For this reason, the purposes of the requested minimum stream flow are found to be within the scope of the minimum stream flow law.

Public interest is a dynamic factor subject to change as the needs and desires of the people in the Pahsimeroi River area and throughout Idaho evolve. A perpetual commitment of a significant amount of water to a use without a workable method of changing the terms of that use could at some future time adversely affect the public interest. Approval of a minimum stream flow for the Pahsimeroi River should provide for a periodic review of the continued public interest.

CONCLUSIONS OF LAW

1. The proposed minimum stream flow appropriation will not

interfere with any vested water right, permit, or right under an application, having a priority date earlier than December 12, 1979.

2. The proposed minimum stream flow appropriation is in the public, as opposed to private, interest.

3. The proposed minimum stream flow appropriation is necessary for steelhead and rainbow trout and salmon spawning, migration, and rearing habitat in the river.

4. The proposed minimum stream flow is the minimum flow required for the purposes cited in Conclusion of Law No. 3 and not the ideal or most desirable flow.

5. The proposed minimum stream flow is usually capable of being maintained in the requested reaches of the Pahsimeroi River.

6. Minimum stream flow application No. 73-7045 is senior in priority date to applications for permits No. 73-7051 and 73-7055 in the name of Idaho Power Company.

7. The Board's consideration of the minimum stream flow request represented by application 73-7045 was within the time period provided by law.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 73-7045 is approved subject to the following conditions:

1. Upon the future finding and order of the Director that additional gauging stations are required to maintain the approved minimum stream flows of the Pahsimeroi River such measuring devices shall be permanently installed and maintained as specified by the Director.

2. The use of water under this permit shall recognize all reasonable irrigation diversion practices on the Pahsimeroi River and tributaries existing at the time application No. 73-7045 was filed (December 12, 1979). In particular, administration of this permit shall not prevent such existing diversions of excess waters in addition to recorded rights if all recorded rights, excluding the right under this permit, are then satisfied. In this regard, the watermaster of Water District 73 is not authorized to control, for the purpose of delivering water to fill the right authorized under this permit, the diversion of water to any land

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irrigated under a valid water right from Pahsimeroi River and tributaries prior to December 12, 1979.

3. Proof of instream beneficial use of the minimum stream flow appropriated shall be submitted in a manner approved by the Department on or before February 1, 1989. The proof submitted shall include at least three years of flow data for the water course and data to document usage in accordance with the purposes permitted. The frequency of data accumulaton must be submitted to the Director for review and approval.

4. The use of water under this permit shall be nonconsumptive.

5. The use of water under this permit is subject to all prior rights.

6. The Director retains jurisdiction to review and amend any and all parameters of this permit and subsequent license upon his determination that the public interest is no longer served by the minimum stream flow as established. The Director will review the permit and subsequent license 10 years after issuance of the permit or upon petition of 50 percent or more of the registered voters residing within the Pahsimeroi River Basin.

7. The application hereby approved by the Director shall be submitted to the Idaho Legislature by the fifth day of the next regular legislative session and the Director's approval shall not become finally effective until approved by the legislature pursuant to the procedure provided by Section 42-1503, Idaho Code.

Dated this 4th day of January, 1984.

A. KENNETH DUNN
Director

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Form 202
3/78

Ident. No. 73-7045

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Idaho Water Resource Board. Phone 334-4440

   Post office address Statehouse, Boise, Idaho 83720

2. Source of water supply Pahsimeroi River which is a tributary of Salmon River

3. Location of point of diversion is ____ ¼ of ____ ¼ of Section ____ Township ____ Range ____ B.M. ____ County, additional points of diversion if any: ____

   Reach is from the confluence of the Pahsimeroi River and the Salmon River in Lot 3, (SW¼NW¼) Sec. 25, T. 16N, R. 20E, upstream approximately 7 miles to the discharge point of the fish rearing and release ponds, located in the NW¼NW¼, Sec. 21, T. 15N, R. 21E, Custer and Lemhi counties

4. Water will be used for the following purposes:

   Amount See #10 (cfs or acre-feet per annum) for Instream Flow purposes from January 1 to December 31 (both dates inclusive)

   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)

   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)

   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)

5. Total quantity to be appropriated:

   a. 74.0 cubic feet per second and/or b. ____ acre-feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. ____

   b. Height of storage dam ____ feet, active reservoir capacity ____ acre-feet; total reservoir capacity ____ acre-feet, materials used in storage dam: ____

      Period of year when water will be diverted to storage ____ (Month/Day) to ____ (Month/Day), inclusive.

   c. Proposed well diameter is ____ inches; proposed depth of well is ____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years *(minimum 1 year – maximum 5 years).*

8. Description of proposed uses:
   a. If water is not for irrigation:
      (1) Give the place of use of water: ____ ¼ of ____ ¼ of Section ____ Township ____ Range ____ B.M. Within reach described in item 3 above.

      (2) Amount of power to be generated: ____ horsepower under ____ feet of head.

      (3) List number of each kind of livestock to be watered ____

      (4) Name of municipality to be served ____, or number of families to be supplied with domestic water ____.

      (5) If water is to be used for other purposes describe: To maintain trout and salmon spawning, migration, and rearing habitat within the reach described in item 3 above.

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b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

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c. Describe any other water rights used for the same purposes as described above. None

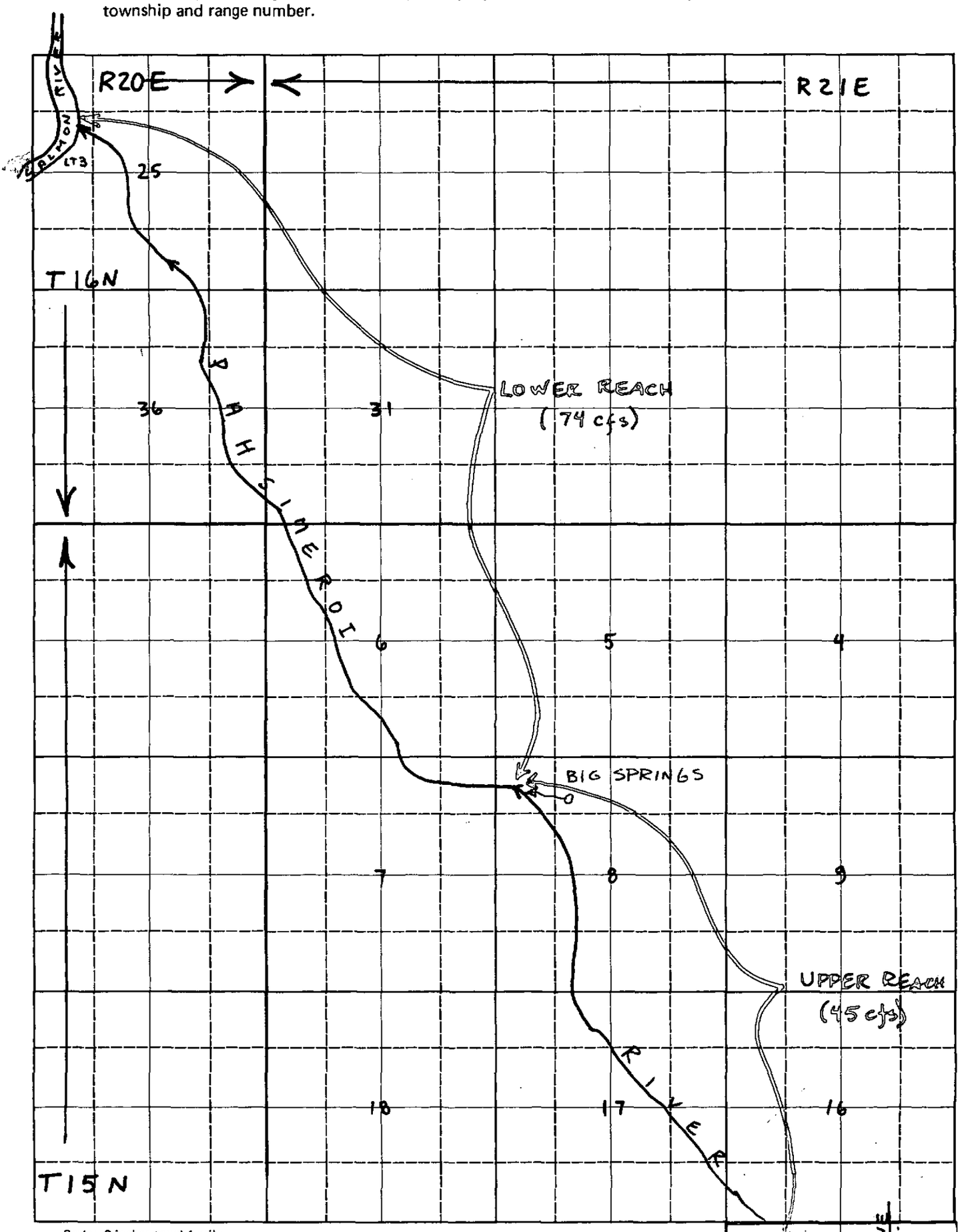
9. a. Who owns the property at the point of diversion _____

b. Who owns the land to be irrigated or place of use _____

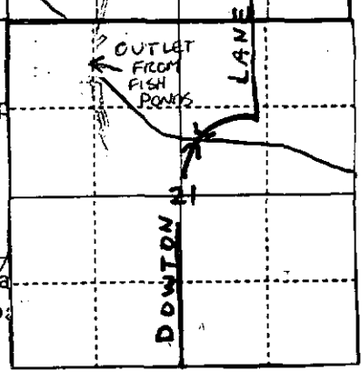
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing _____

10. Remarks The two fish rearing facilities located near Ellis at the mouth of the Pahsimeroi River and west of May, approximately seven river miles upstream from the mouth are owned by Idaho Power Company and operated by Idaho Dept. of Fish and Game. The facilities produce anadromous salmonids to replace natural runs which were blocked by the Idaho Power Company's hydroelectric dams in Hells Canyon of the Snake River. The requested instream flow is necessary for the successful operation of these facilities. The requested flow is divided into two reaches as follows: (1) Lower Reach: 74 cfs from the lower end of the minimum stream flow reach at the confluence of the Pahsimeroi River and the Salmon River, upstream about 4 miles to the point of injection of Big Springs in the NW¼NW¼, Sec. 8, T. 15N, R. 21E. (2) Upper Reach: 45 cfs from the point of injection of Big Springs, upstream about 3 miles to the discharge point of the fish rearing and release ponds at the upper end of the minimum stream flow reach.

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.



BE IT KNOWN that the undersigned hereby makes application for permit to appro
the State of Idaho as herein set forth.

M. Reed J

CHAIRMAN (Applica
Idaho Water Resource Bo

MODIFIED

Priority: December 19, 1979

kw 1-07-1980 2:00 p.m.
Received by rg Date 12-19-1979 Time 4:55 p.m.

Preliminary check by _____ Fee $ —

Receipted by _____ Date _____

Publication prepared by kw Date June 5, 1980

Published in Custer Publishing Company

Publication dates June 12 & June 19, 1980

Publication approved _____ Date _____

Protests filed by: _____

_____

_____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by _____

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ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 73-7045, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before February 1, 19 89.

   c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

   d. Other:

PURSUANT TO MEMORANDUM DECISION AND ORDER

Dated this 4th day of January, 1984.

A. KENNETH DUNN, Director

NAME OF STREAM: Pahsimeroi River, a tributary to Salmon River

LEGAL DESCRIPTION OF THE POINT OF THE STREAM WHERE STREAM FLOW IS REQUESTED:

From the point of confluence with the Salmon River, Lot 3 (SW¼NW¼) Sec. 25, T. 16N, R. 20E., upstream approximately seven river miles to the outlet of the rearing and release ponds, in the NW¼NW¼, Sec. 21, T. 15N, R. 21E.

THE PROPOSED STREAM FLOW IN CUBIC FEET PER SECOND:

1. Lower Reach (Confluence between the Pahsimeroi and the Salmon upstream to Big Springs) 74 cfs.
2. Upper Reach (Big Springs upstream to the outlet of the fish rearing and release ponds) 45 cfs.

THE PURPOSE FOR WHICH THE MINIMUM STREAM FLOW IS PROPOSED:

To maintain trout and salmon spawning, rearing, and migration within the stream habitat segment described above.

THE PERIOD OF TIME OR SEASON OF YEAR DURING WHICH APPROPRIATION IS PROPOSED:

All year.

EVIDENCE THAT THE APPROPRIATION WILL NOT INTERFERE WITH ANY VESTED WATER RIGHT, PERMIT, OR WATER APPLICATION OF EARLIER DATE OF PRIORITY:

The above requested flow is for instream nonconsumptive use and will be subject to all vested water rights, permits or water applications of earlier dates of priority.

EVIDENCE THAT THE APPROPRIATION WOULD BE IN THE PUBLIC INTEREST AS OPPOSED TO PRIVATE INTEREST:

The Pahsimeroi River is an important rearing and spawning stream for steelhead trout and chinook salmon. In addition to natural production of resident and anadromous game fish, hatchery facilities located within the stream segment release 200,000 pounds (approximately 1.5 million fish) of steelhead trout smolts each year. Expansion of facilities to produce an additional one million chinook salmon smolts for release to the Pahsimeroi River is planned. The anadromous fish produced and released at the Pahsimeroi Hatchery facilities support a substantial sport fishery in the Salmon and Snake rivers.

The requested instream water right will be held in trust for the people of Idaho by the Idaho Water Resource Board.

EVIDENCE OR JUSTIFICATION THAT THE APPROPRIATION IS NECESSARY FOR THE PURPOSES SHOWN ABOVE:

During 1977, personnel of the Idaho Department of Fish and Game collected field data from the Pahsimeroi River for use with instream flow methodologies in determining flows for fish and wildlife resources. Methodologies, techniques and flow recommendations are presented in the following publication:

Cochnauer, Tim and Neil R. Hoyt. 1979. Stream Flow Investigations -- Stream Resource Maintenance Flow Determinations on Idaho Streams. Job Performance Report. Project F-73-R-1. Idaho Department of Fish and Game.

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EVIDENCE THAT THE REQUESTED FLOW IS MINIMUM AND NOT THE IDEAL OR MOST DESIRABLE FLOW:

The ideal flow would be bankfull discharge or approximately 140 cfs.

EVIDENCE THAT THE REQUESTED FLOW IS CAPABLE OF BEING MAINTAINED AS EVIDENCED BY RECORDS OF STREAM FLOWS:

Flow records indicate that the highest requested flow of 127 cfs is available more than 90% of the time. Flows less than 100 cfs are available 100% of the time. These records are taken from gage station no. 13302000.

LOCATION OF EXISTING GAGE STATION THAT CAN BE USED IN THE ADMINISTRATION OF THIS APPROPRIATION:

Gage Station No. 13302000 near May, Custer County.

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AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS, Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated Aug. 19, 19 82 and ending with the issued dated Aug. 26, 19 82

Margaret Parks

Subscribed and sworn to before me this 26th day of August, 19 82

Ethel M. Peck

Notary Public, residing at Challis, Idaho. My commission expires on

Life

NOTARIAL SEAL

NOTICE OF AMENDED APPLICATION FOR PERMIT FOR MINIMUM STREAMFLOW

Notice is hereby given that application for permit No. 73-7045 in the name of Idaho Water Resource Board was filed for the appropriation of 74 to 127 cubic feet per second of water within the NW¼-NW¼, Sec. 25, T. 16N, R. 20E extending approximately 7 miles upstream to the NE¼NE¼, Sec. 21, T. 15N. R. 21E, B.M., Custer County.

The applicant now proposes to amend application No. 73-7045 proposing the appropriation of 74 c.f.s. of water from the confluence of the Pahsimeroi and the Salmon River upstream to Big Springs, and 45 c.f.s. from Big Springs upstream to the outlet of the fish rearing and release ponds within the NW¼NW¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County; to be used from January 1 to December 31 to maintain trout and salmon spawning, migration and rearing habitat in the Pahsimeroi River tributary to Salmon River.

The Department of Water Resources will hold a public hearing on the application in the Legion Hall, Main Street, Challis, Idaho, at 9:00 a.m. on Septembe 24, 1982, for the purpose of hearing evidence in regard to the application. The hearing will be held pursuant to the provisions of Section 42-1503, **Idaho Code.**

Any party who wishes to formally appear at this proceeding for the purpose of presenting evidence or cross-examinating witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Pub: Aug. 19 & 26, 1982

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If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Published in The Recorder Herald, September 9 and 16, 1982.

9-9-2tc

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Affidavit of Publication

RECEIVED
SEP 17 1982
Department of Water Resources
Eastern District Office

STATE OF IDAHO } ss.
County of Lemhi }

JERRY G. ROSIN, being first duly sworn, deposes and says that he is one of the printers (publisher) of the RECORDER HERALD, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein,

That the Notice of Amended Application for Minimum Streamflow

a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for 2 consecutive issues, commencing with the issue dated Sept. 9, 1982 and ending with the issue dated Sept. 16, 1982

Jerry G. Rosin

Subscribed and sworn to before me, this sixteenth day of September, 1982

Notary Public for the State of Idaho,
Residing at Salmon, Idaho

Publication Fee $ 36.00

Salmon, Idaho 83467
Telephone: 756-2714

9-3-3tc

NOTICE OF AMENDED APPLICATION FOR PERMIT FOR MINIMUM STREAMFLOW

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The applicant now proposes to amend application No. 73-7045 proposing the appropriation of 74 c.f.s. of water from the confluence of the Pahsimeroi and the Salmon Rivers upstream to Big Springs, and 45 c.f.s. from Big Springs upstream to the outlet of the fish rearing and release ponds within the NW¼-NW¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County; to be used from January 1 to December 31 to maintain trout and salmon spawning, migration, and rearing habitat in the Pahsimeroi River tributary to Salmon River.

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If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Published in The Recorder Herald, September 9 and 16, 1982.

9-9-2tc

O.K.

RECEIVED
SEP 3 1982
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 73-7045 TO ESTABLISH A MINIMUM STREAM FLOW IN THE PAHSIMEROI RIVER IN THE NAME OF THE IDAHO WATER RESOURCE BOARD

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this the 5th day of January, 1984, a true and correct copy of the MEMORANDUM DECISION AND ORDER was mailed postage prepaid to:

Ralph Hatch
Ellis, ID 83235

Gene M. Gray
Route 1, Box 46-A
Payette, ID 83661

Franklin Jones
4209 Catalpa Drive
Boise, ID 83703

M. Reed Hansen
Route 5, Box 213
Idaho Falls, ID 83401

James Shawver
Eden, ID 83325

Richard W. Wagner
650 21st Avenue
Lewiston, ID 83501

Sally L. Cupon
515 S. Boyer Avenue
Sandpoint, ID 83864

J. D. Williams
P. O. Box 191
Preston, ID 83263

Scott W. Reed
P. O. Box A
Coeur d'Alene, ID 83814

Syd Dowton
Salmon, ID 83467

Jimmie L. Dowton
May, ID 83253

Roy Ellis
Ellis, ID 83235

Dow O'Neal
May, ID 83253

John Buggenkamp
May, ID 83253

Vaughn Higbee
Ellis, ID 83235

Louie Demrest
Salmon, ID 83467

Ray Infanger
Salmon, ID 83467

Dave Hanson
Idaho Department of Fish and Game
Statehouse Mail
Boise, ID 83720

Don Blatz
Ellis, ID 83235

John White
Box 1944
Salmon, ID 83467

Fidele Amar
Ellis, ID 83235

G. W. Welch
Idaho Department of Fish and Game
Box 787
Challis, ID 83226

Kent Ball
Idaho Department of Fish and Game
Box 1336
Salmon, ID 83467

Steve Goddard
Idaho Department of Fish and Game
Statehouse Mail
Boise, ID 83720

Worth Boggeman
Ellis, ID 83235

L. L. Anderson
Box 184
Central, ID

Nadine Chaffee
May, ID 83253

Jom Bob Infanger
Salmon, ID 83467

Mary B. Boggeman
Ellis, ID 83235

Charles Kesl
May, ID 83253

J. R. Bennetts
Challis, ID 83226

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(Continued on Page 2)

James N. Hawkins
Challis, ID 83226

Ray Horn
May, ID 83253

Ray Ellis
Ellis, ID 83235

Duane Moen
May, ID 83253

Rance Bare
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Idaho Falls, ID 83401

Tom Reinecker
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Larry Wymer
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Mel Reingold
Box 1336
Salmon, ID 83467

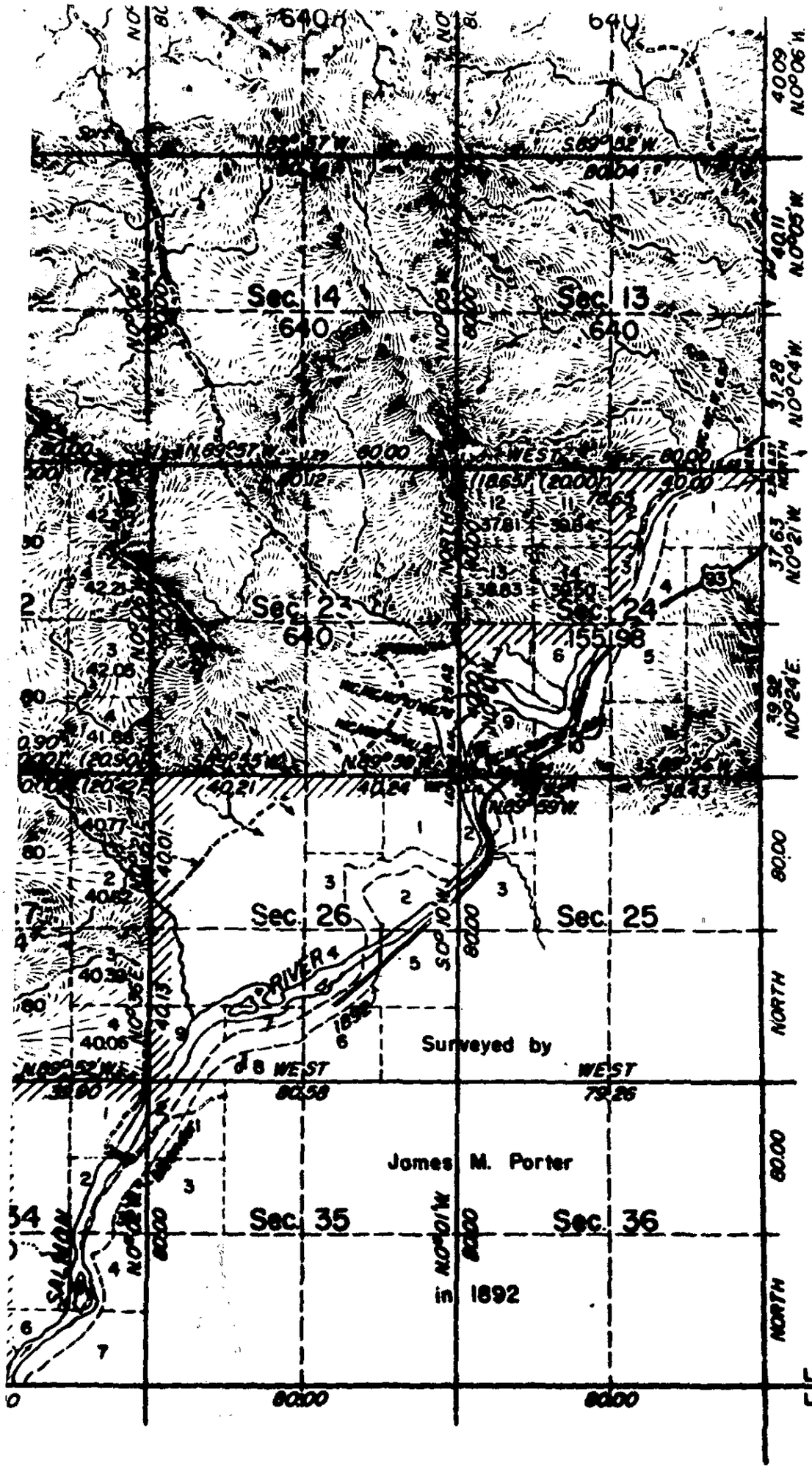
Bob Moore
Box 85
Ellis, ID 83235

Wayne E. Tibbitts
Lorenzo Rt., Box 212
Rigby, ID 83442

Donald R. Kramer
Idaho Water Resource Board
Statehouse
Boise, ID 83720

RITA I. FLECK
Secretary/Records Manager
Idaho Department of Water Resources

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Ident. No. 73 7045

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED
DEC 21 1979
Department of Water Resources
Southern District Office

To appropriate the public waters of the State of Idaho

1. Name of applicant Idaho Water Resource Board Phone 384-2215

   Post office address Statehouse, Boise, Idaho 83720

2. Source of water supply Pahsimeroi River which is a tributary of Salmon River

3. Location of point of diversion is Government Lot 1 NW ¼ of NW ¼ of Section 25 Township 16 N

   Range 20 E B.M. Custer County, additional points of diversion if any: ____

4. Water will be used for the following purposes:

   Amount See No. 10 (cfs or acre-feet per annum) for instream flow purposes from ____ to ____ (both dates inclusive)

   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)

   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)

   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)

5. Total quantity to be appropriated:

   a. ____ cubic feet per second and/or b. ____ acre-feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. ____

   b. Height of storage dam ____ feet, active reservoir capacity ____ acre-feet; total reservoir capacity ____ acre-feet, materials used in storage dam: ____

      Period of year when water will be diverted to storage ____ (Month/Day) to ____ (Month/Day) inclusive.

   c. Proposed well diameter is ____ inches; proposed depth of well is ____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years *(minimum 1 year – maximum 5 years).*

8. Description of proposed uses:

   a. If water is **not** for irrigation:

      (1) Give the place of use of water: Government Lot 1 NW ¼ of NW ¼ of Section 25 Township 16 N

      Range 20 E B.M.

      (2) Amount of power to be generated: ____ horsepower under ____ feet of head.

      (3) List number of each kind of livestock to be watered ____

      (4) Name of municipality to be served ____, or number of families to be supplied with domestic water ____.

      (5) If water is to be used for other purposes describe: To maintain trout and salmon spawning, migration, and rearing habitat from the point of requested flow upstream approximately 7 miles to the fish rearing and release ponds located in NE¼NW¼, Sec. 21, T. 15N, R.21E.

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b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SE¼	SW¼	

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. None

9. a. Who owns the property at the point of diversion _____

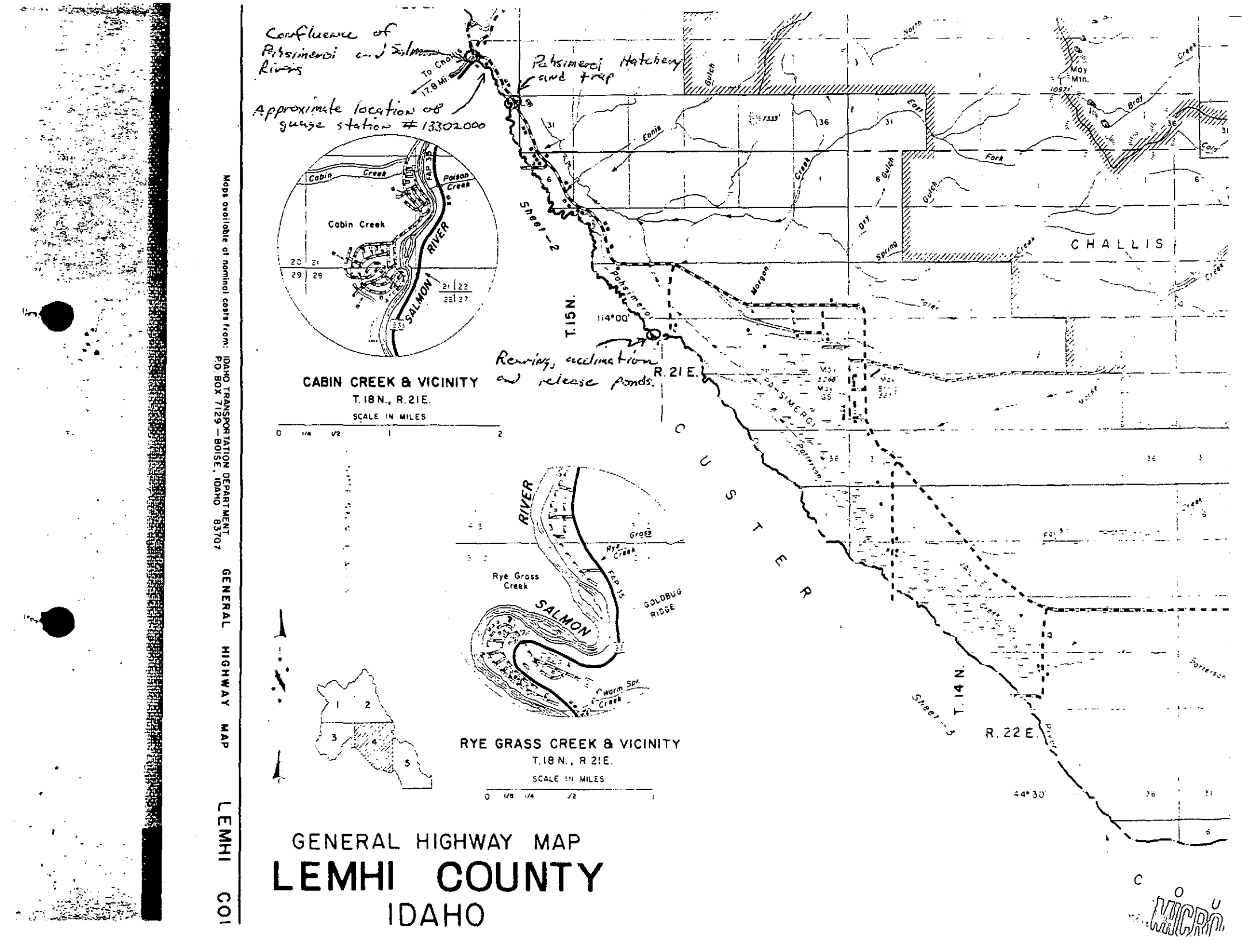
b. Who owns the land to be irrigated or place of use _____

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing _____

10. Remarks Requested instream flow (cfs) by month:

Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.
85	74	78	109	109	78	78	127	127	127	85	85

The two fish rearing facilities located near Ellis at the mouth of the Pahsimeroi River and west of May, approximately seven river miles upstream from the mouth are owned by Idaho Power Company and operated by Idaho Department of Fish and Game. The facilities produce anadromous salmonids to replace natural runs which were blocked by the Idaho Power Company's hydroelectric dams in Hells Canyon of the Snake River. The requested instream flow is necessary for the successful operation of these facilities. The Pahsimeroi hatchery operations provided approximately 85% of the harvest in the 1979 fall steelhead season.



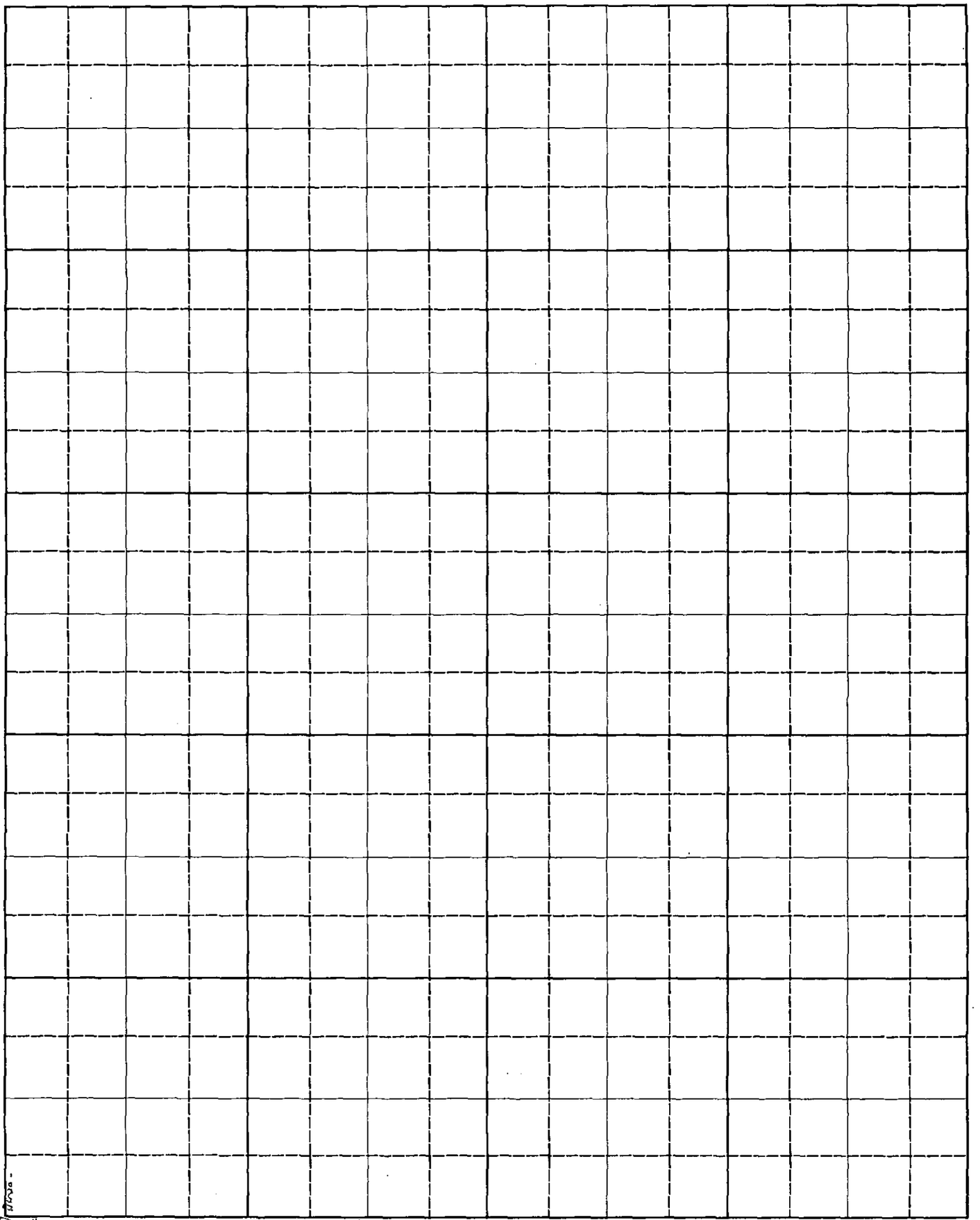
GENERAL HIGHWAY MAP
LEMHI COUNTY
IDAHO

Maps available at nominal costs from: IDAHO TRANSPORTATION DEPARTMENT, P.O. BOX 7129 — BOISE, IDAHO 83707

GENERAL HIGHWAY MAP LEMHI CO

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11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Joe Nettleton

(Applicant)

Joe Nettleton, Chairman

Received by tw Date 1/07/1980 Time 2:00
12-19-1979 4:55 p.m.

Preliminary check by _____ ~~Fee $~~ _____

Receipted by _____ Date _____

Publication prepared by tw Date 6/6/80

Published in Custer Publishing Co.

Publication dates 6/12 & 6/19/80

Publication approved _____ Date _____

Protests filed by: _____

_____

_____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by _____

APPROVED

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____ , and said application is hereby _____ .

1. Approval of said application is subject to the following limitations and conditions:

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____ , 19____ .

   c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

   d. Other: _____

_____

_____

_____

_____

Witness my hand this _____ day of _____ , 19____ .

_____

Director

NAME OF STREAM: Pahsimeroi River, a tributary to Salmon River

LEGAL DESCRIPTION OF THE POINT OF THE STREAM WHERE STREAM FLOW IS REQUESTED:

From the point of confluence with the Salmon River (Govt. Lot 1 NW¼NW¼, Sec. 25, T. 16 N., R. 20 E.) upstream approximately seven river miles to the fish rearing and release ponds located near the Doughton Lane bridge (NE¼NW¼, Sec. 21, T. 15 N., R. 21 E.).

THE PROPOSED STREAM FLOW IN CUBIC FEET PER SECOND:

Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
85	74	78	109	109	78	78	127	127	127	85	85

THE PURPOSE FOR WHICH THE MINIMUM STREAM FLOW IS PROPOSED:

To maintain trout and salmon spawning, rearing, and migration within the stream habitat segment described above.

THE PERIOD OF TIME OR SEASON OF YEAR DURING WHICH APPROPRIATION IS PROPOSED:

See above.

EVIDENCE THAT THE APPROPRIATION WILL NOT INTERFERE WITH ANY VESTED WATER RIGHT, PERMIT, OR WATER APPLICATION OF EARLIER DATE OF PRIORITY:

The above requested flow is for instream nonconsumptive use and will be subject to all vested water rights, permits or water applications of earlier dates of priority.

EVIDENCE THAT THE APPROPRIATION WOULD BE IN THE PUBLIC INTEREST AS OPPOSED TO PRIVATE INTEREST:

The Pahsimeroi River is an important rearing and spawning stream for steelhead trout and chinook salmon. In addition to natural production of resident and anadromous game fish, hatchery facilities located within the stream segment release 200,000 pounds (approximately 1.5 million fish) of steelhead trout smolts each year. Expansion of facilities to produce an additional one million chinook salmon smolts for release to the Pahsimeroi River is planned. The anadromous fish produced and released at the Pahsimeroi Hatchery facilities support a substantial sport fishery in the Salmon and Snake rivers.

The requested instream water right will be held in trust for the people of Idaho by the Idaho Resource Board.

EVIDENCE OR JUSTIFICATION THAT THE APPROPRIATION IS NECESSARY FOR THE PURPOSES SHOWN ABOVE:

During 1977, personnel of the Idaho Department of Fish and Game collected field data from the Pahsimeroi River for use with instream flow methodologies in determining flows for fish and wildlife resources. Methodologies, techniques and flow recommendations are presented in the following publication:

Cochnauer, Tim and Neil R. Hoyt. 1979. Stream Flow Investigations -- Stream Resource Maintenance Flow Determinations on Idaho Streams. Job Performance Report. Project F-73-R-1. Idaho Department of Fish and Game.

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EVIDENCE THAT THE REQUESTED FLOW IS MINIMUM AND NOT THE IDEAL OR MOST DESIRABLE FLOW:

The ideal flow would be bankfull discharge or approximately 140 cfs.

EVIDENCE THAT THE REQUESTED FLOW IS CAPABLE OF BEING MAINTAINED AS EVIDENCED BY RECORDS OF STREAM FLOWS:

Flow records indicate that the highest requested flow of 127 cfs is available more than 90% of the time. Flows less than 100 cfs are available 100% of the time. These records are taken from gage station no. 13302000.

LOCATION OF EXISTING GAGE STATION THAT CAN BE USED IN THE ADMINISTRATION OF THIS APPROPRIATION:

Gage Station No. 13302000 near May, Custer County.

MICROFILMED

Notice is hereby given that the following application has been submitted for permit to appropriate the public waters of the State of Idaho:

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on December 19, 1979 submitted Application for Permit No. 73-7045[illegible] to the Department of Water Resources proposing the appropriation of 74 to 127 cubic feet per second of water within the NW¼NW¼, Sec. 25, T. 16N, R. 20E extending approximately 7 miles upstream to the NE¼NE¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County to maintain trout and salmon spawning , migration, and rearing habitat year around in the Pahsimeroi River tributary of the Salmon River.

The Director of the Department of Water Resources will hold a public hearing on the application in the Challis High School Gym, Main Street, Challis, Idaho, at 9:00 am on July 9, 1980, for the purpose of hearing evidence in regard to the application. The hearing will be held pursuant to the provision of Section 42-1503, Idaho Code.

Any party who wishes to formally appear at this proceeding for the purpose of presenting evidence or cross examing witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

If issued the permit will be subject to all prior water rights.

C. STEPHEN ALLRED

Director

Published in the Custer Publishing Company 6/12 & 6/19/80.

RECEIVED

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS
Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated June 12, 19.80. and ending with the issued dated June 19, 19.81.

Margaret Parks

Subscribed and sworn to before me this 10. day of April, 19.81.

Notary Public, residing at Challis, Idaho. My commission expires on April 30, 1983

NOTARIAL SEAL

RECEIVED
APR 13 1981
Department of Water Resources
Eastern District Office

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

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If issued the permit will be subject to all prior water rights.

C. STEPHEN ALLRED,
Director

Publish 6/12 & 6/19/80

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, ETHEL M. Peck

~~Publisher of~~ the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for two consecutive weeks, commencing with the issue dated November 5, 19.81 and ending with the issued dated November 12 19.81

Subscribed and sworn to before me this 9 day of December, 19.81.

Barbara S. Garcia

Notary Public, residing at Challis, Idaho. My commission expires on August 18, 1985

MICROFILMED

Ida Falls

NOTICE OF PUBLIC MEETING FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board plans to hold an informal meeting to obtain public input concerning a minimum stream flow application No. 73-7045 on the Pahsimeroi River tributary to the Salmon River.

The meeting will be held on Wednesday, November 18, 1981 at 1:00 p.m. in the Courtroom, Custer County Courthouse, Challis, Idaho.

Any person interested in this application is invited to appear and provide comments.

A. KENNETH DUNN
Director

Pub. Nov. 5 & 12, 1981

RECEIVED
DEC 24 1981
Department of Water Resources
Eastern District Office

RECEIVED
DEC 21 1981
Department of Water Resources
Southern District Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 14, 1994

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

RE: WATER RIGHT NO. 73-07045

Dear Water Right Holder(s):

Enclosed is a copy of the Water Right License issued on the above referenced permit. If you have any questions, please contact me within 10 days of receipt of this license.

Sincerely,

JIM JOHNSON, Manager
Water Right Permits Section

JJ:dc

Enclosure

OCT 31 1994

LICENSING REVIEW
MINIMUM STREAM FLOW

RIGHT NO. 73-7045

Proof of beneficial use rec'd 1/16/91

Was flow data submittal a requirement with proof submittal? Yes ✓ No ____

If yes, has data been reviewed and a determination made that minimum flow is capable of being maintained? Yes ✓ No ____ 3 yrs. req'd

Data submitted fully complies with permit condition (i.e. # of years of flow data sufficient) ✓

Data Entry for License:

Name Standardized	✓
Total cfs & div. capacity listed as highest flow	✓
P/D(s) beginning and ending descriptions listed	✓
Use flows defined for entire year	✓
P/U left blank (description in remarks)	✓
Remarks/non-standard conditions	
Non-consumptive	✓
Watermaster control	n/a
Jurisdiction retains to amend	✓
Description of reach(es)	✓
All other applicable permit conditions carried forward	✓

Comments/adjustments _____

Printed license hand-edited ✓

8/1/94

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	STATE OF IDAHO IDAHO WATER RESOURCE BOARD STATEHOUSE BOISE ID 83720	01/03/1980	MINIMUM INSTREAM FLOW	01-01	12-31	74.00 CFS	
				TOTAL DIVERSION:		74.00 CFS	

Water Source: PAHSIMEROI RIVER Tributary to: SALMON RIVER Stage: LICENSE

Point(s) of Beginning Stream Reach:	T15N R21E S08	NWNW		CUSTER County
	S21	NWNW		CUSTER County
Point(s) of Ending Stream Reach:	T15N R21E S08	NWNW		CUSTER County
	T16N R20E S25 Lot 03(	SWNW)		CUSTER County

Point of Diversion Name(s):

				Name	Rate	Number
T15N	R21E	S08	NW NW	UPPER REACH	45.000 CFS	
		S08	NW NW	LOWER REACH	74.000 CFS	
		S21	NW NW	UPPER REACH	45.000 CFS	
T16N	R20E	S25 Lot 03 (	SW NW)	LOWER REACH	74.000 CFS	

Pou County:

Conditions of Approval:
027 - Use of water under this right shall be non-consumptive.
R04 - Use of water under this water right will be regulated by the
- watermaster of State Water District No. 73.

Remarks: Upon the future findings and order of the Director that additional gauging stations are required to maintain the approved minimum stream flows of the Pahsimeroi River such measuring devices shall be permanently installed and maintained as specified by the Director.
The flow is divided into two reaches: 1) Lower Reach - 74.0 cfs from the confluence of the Pahsimeroi River and the Salmon River, upstream about 4 miles to the point of injection of Big Springs 2) Upper Reach - 45.0 cfs from the point of injection of Big Springs, upstream about 3 miles to the discharge point of the fish rearing and release ponds.
The Director retains jurisdiction to reivew and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.
The use of water under this right shall recognize all reasonable

Remarks: irrigation diversion practices on the Pahsimeroi River and tributaries in existence at the time of the filing of this right. Existing irrigation practices, for the purpose of this condition, are evidenced by the maps, photographs, data and measurements referenced in the Amended Memorandum Decision and Order issued at the time of permit approval on 1/9/86. In particular, administration of this right shall not prevent such existing reasonable diversions of excess waters in addition to recorded rights if all recorded right, excluding this right, are then satisfied. The watermaster of Water District 73 is not authorized to control the diversion of water to any land irrigated under a valid water right from Pahsimeroi River and tributaries with a priority date earlier than the priority of this right.

Dates:

App. Received:	12/19/1979	Priority Date:	01/03/1980	(Priority Date Advanced.)
Proof Due Date:	01/01/1991	Proof Made Date:	01/16/1991	(Proof Received Late.)
Exam Made Date:		Exam Sent to S.O.:		
Licensed Date:				

Misc: Water District Number: 73 Field Exam Fee: N (Not Required)

Audit: 05/23/94 CURTIS 05/24/94 CURTIS 08/01/94 SCURTIS 08/01/94 SCURTIS

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 3, 1991

Cindy Robertson
Idaho Dept. of Fish and Game
600 S. Walnut
Box 25
Boise, ID 83707

RE: Application for Permit to Appropriate Water No. 73-7045

Dear Cindy:

I have reviewed the flow information for the Pahsimeroi River which you submitted. I find that it satisfies the conditions contained in the Director's Final Memorandum Decision and Order approving the minimum streamflow.

I am returning with this letter the three large hydrographs for your records. We have copied the hydrographs and will make them a part of our documents as well.

As always, thank you for your prompt and professional assistance.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

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OCT 31 1994

PROOF OF BENEFICIAL USE FOR
THE PAHSIMEROI RIVER
MINIMUM STREAMFLOW

WATER RIGHT NO. 73-7045

Submitted by Idaho Department of Fish and Game

May 12, 1991

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OCT 31 1994

The Pahsimeroi River is of vital importance to the fisheries program in the upper Salmon River drainage. Historically, the Pahsimeroi River supported populations of wild steelhead trout, summer chinook salmon, and resident fish such as westslope cutthroat trout and bull trout.

Currently, there are two fish facilities on the Pahsimeroi River, near Ellis, Idaho. The main hatchery facility consists of a weir, fish trap and adult holding pens, four raceways, and an incubation shed. Two dirt juvenile rearing ponds are located seven miles upstream from the main facility. These facilities are operated by the Idaho Department of Fish and Game (Department) for Idaho Power Company who owns the facilities and funds their operation. The salmon and steelhead programs at these facilities are mitigation, in part, to relocate fish runs blocked by Idaho Power Company dams on the Snake River.

The hatchery supported steelhead program began in 1965 when eggs were taken from adult fish captured in the Snake River and their progeny were released in the Pahsimeroi River. Since 1967, an average of 1,231,415 steelhead juveniles have been released annually in to the Pahsimeroi River (Table 1). Most of the fish migrate to the ocean during the year of release, but some rear in the Pahsimeroi River for an additional year before migrating. The first hatchery-reared adult steelhead returned to the Pahsimeroi facility in 1969. Since then, 66,239 adults have been handled at the facility (Table 2).

Summer chinook salmon have been reared and released from the Pahsimeroi facility since 1970. An average of nearly 317,000 juveniles have been released annually (Table 3). Most of these fish rear in the Pahsimeroi River for one year and migrate to the ocean the spring following their release. The Department's goal is to release one million juvenile summer chinook salmon annually from the Pahsimeroi facility. We have met that goal since 1989.

Adult summer chinook salmon are also trapped and held at the facility. Since 1969, 6,418 adult salmon have been collected at the facility (Table 4). Not all the adult fish are spawned at the hatchery facilities. The number of fish released above the weir to spawn naturally in the river depends on run size and egg-take needs for a given year. In general, the Department attempts to release approximately 30% of the total run above the weir. The Pahsimeroi River is a very productive spring fed stream and has the capability of producing large numbers of fish.

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OCT 31 1994

Steelhead trout and chinook salmon from the Pahsimeroi River make major contributions to Idaho's anadromous fisheries, as well as downriver fisheries. From 1969 to 1987, the rate of exploitation (expectation of death from fishing) for steelhead returning to the Salmon River from Pahsimeroi River releases has averaged nearly 60% (Table 5). During the same time period, anglers harvested approximately 79,000 steelhead of Pahsimeroi Hatchery origin, while total Salmon River steelhead harvest was approximately 154,000 fish.

Steelhead and salmon make a significant contribution to the local and state economy. From 1983 to 1989, an estimated 325,068 angler days were expended on steelhead fishing on the Salmon River from the South Fork Salmon River to the Pahsimeroi River, an average of 46,438 angler days per year. This is a conservative estimate of total fishing pressure as some estimates of angler use are incomplete (Table 6). Using figures reported by Donnelly et al. (1985) for net economic values of recreational steelhead fishing in Idaho and adjusting them for the current consumer price index, the minimum estimated annual value of the steelhead fishery for the above section of river alone is $2,223,930. No calculations were made for the economic value for a chinook salmon fishery or resident trout. There has not been a salmon fishing season on the main Salmon River since 1979 and the Department has not collected sufficent creel census or fish population information on resident trout in the Salmon or Pahsimeroi rivers to make an estimate of their economic value.

The minimum stream flow request for the Pahsimeroi River is critical in maintaining the steelhead trout and summer chinook salmon programs in the upper Salmon River drainage and ultimately the state. The flows are necessary for both migrating adults and juvenile fish and juvenile fish rearing habitat.

OCT 31 1994

REFERENCES

Donnelly, D.M., J.B. Loomis, C.F. Sorg, and L.J. Nelson. 1985. Net economic value of recreational steelhead fishing in Idaho. USDA Forest Service, Resource Bulletin RM-9.

RECEIVED
OCT 31 1994

Table 1. Number of juvenile steelhead trout released from Idaho Power Company facilities into the Pahsimeroi River, 1967 to 1990.

Year Released	Number of Fish Released
1967	1,292,000
1968	1,484,000
1969	1,645,000
1970	1,622,000
1971	1,442,000
1972	1,730,000
1973	1,292,000
1974	1,849,000
1975	1,331,000
1976	1,610,000
1977	1,448,000
1978	1,266,000
1979	1,372,000
1980	1,098,000
1981	862,500
1982	1,055,984
1983	496,140
1984	754,004
1985	1,273,181
1986	860,358
1987	1,011,900
1988	872,100
1989	930,700
1990	956,100
TOTAL:	29,553,967
AVERAGE:	1,231,415

OCT 31 1994

Table 2. Number of adult steelhead trout collected at Idaho Power Company's Pahsimeroi River facility, 1969 to 1990.

Year Collected	Number of Fish Collected
1969	850
1970	508
1971	713
1972	4,904
1973	1,458
1974	1,795
1975	691
1976	585
1977	1,504
1978	2,803
1979	2,501
1980	1,620
1981	3,491
1982	3,444
1983	5,008
1984	13,883
1985	4,944
1986	4,505
1987	5,033
1988	1,981
1989	1,926
1990	2,092
TOTAL:	66,239
AVERAGE:	3,010

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OCT 31 1994

Table 3. Number of juvenile summer chinook salmon released from Idaho Power Company facilities into the Pahsimeroi River, 1970 to 1990.

Year Released	Number of Fish Released
1970	300,000
1971	250,000
1972	250,000
1973	347,000
1974	330,000
1975	114,000
1976	121,000
1977	235,000
1978	218,000
*1979	--
*1980	--
*1981	--
*1982	--
1983	13,700
1984	55,800
1985	209,150
1986	12,100
1987	258,600
1988	598,500
1989	1,016,300
1990	1,058,000
TOTAL:	5,387,150
AVERAGE:	316,891

* No releases made

OCT 31 1994

Table 4. Number of adult summer chinook salmon collected at Idaho Power Company's Pahsimeroi River facility, 1969 to 1990.

Year Collected	Number of Fish Collected
1969	538
1970	485
1971	262
1972	628
1973	546
1974	155
1975	89
1976	274
1977	558
1978	-
1979	33
1980	46
1981	35
1982	39
1983	109
1984	37
1985	110
1986	345
1987	474
1988	838
1989	347
1990	470
TOTAL:	6,418
AVERAGE:	291

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Table 5. Estimated annual harvest and exploitation rate of steelhead trout of Pahsimeroi Hatchery origin and total Salmon River harvest of steelhead trout, 1969 to 1987 (ND = no data available; CS = closed season).

Year Harvested	Explortation Rate (%)	ESTIMATED HARVEST Pahsimeroi Hatchery	Salmon River
1969	46	390	10,200
1970	47	727	7,946
1971	46	4,373	9,177
1972	52	1,380	5,963
1973	39	1,283	ND
1974	70	1,641	ND
1975	--	CS	CS
1976	55	2,320	2,883
1977	46	3,816	7,717
1978	34	151	ND
1979	51	2,140	2,811
1980	48	4,730	7,466
1981	71	9,118	9,765
1982	63	7,922	13,248
1983	50	14,320	18,765
1984	56	2,603	6,336
1985	65	9,564	18,097
1986	71	9,831	27,057
1987	63	2,714	6,983
TOTAL:		79,023	154,414
AVERAGE:	57	4,390	8,578

OCT 31 199

Table 6. Estimated fishing pressure (angler days) on the Salmon River from the South fork Salmon River to the Pahsimeroi River, 1983 to 1989.

Year		Number of Angler Days
1983		40,575*
1984		54,433
1985		75,079
1986		76,634
1987		34,899*
1988		22,603**
1989		20,845*
	TOTAL:	325,068
	AVERAGE:	46,438

* Spring season only
** Fall Season Only

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1994

IDAHO FISH & GAME
600 South Walnut / Box 25
Boise, Idaho 83707

May 31, 1991

Mr. Gary Spackman
Idaho Department of Water Resources
1301 N. Orchard St.
Statehouse Mail
Boise, Idaho 83720

Dear Gary:

Attached are copies of discharge information provided to us by the USGS and discharge measurements made by us for the Pahsimeroi River minimum streamflow request. I have also included three (3) large hydrographs for the Pahsimeroi River for the 1985, 1986, and 1987 water years. These are the only copies I have, so I would very much appreciate their return. If I can provide any further information, please call me at 334-2597.

Sincerely,

for
Cindy Robertson
Fishery Biologist

CR:kdd

Attachments

RECEIVED
OCT 31 1994

Cecil D. Andrus / Governor
Jerry M. Conley / Director

Working for wildlife - since 1938

United States Department of the Interior

GEOLOGICAL SURVEY

WATER RESOURCES DIVISION
230 Collins Road
Boise, Idaho 83702

November 16, 1987

Mr. Stephen V. Goddard
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut Street
Boise, Idaho 83707

Dear Mr. Goddard:

In accordance with our agreement, the USGS has collected data on the lower Pahsimeroi River for your office. The purpose of this letter is to transmit supporting data to you.

Enclosed are hydrographs comparing the mean daily discharges at the three stations, 13301900 Pahsimeroi River at Dowton Lane, 13301990 Pahsimeroi River at Bursted Lane, and 13302005 Pahsimeroi River at Ellis for the 1985, 1986, and 1987 water years. Also enclosed are rating tables for the three stations and several graphs showing the relations between the three stations. Lastly, enclosed is a map showing measuring points between Dowton and Bursted Lanes.

If you have any questions please feel free to contact me.

Sincerely,

Robert W. Harper
Hydrologic Data Chief

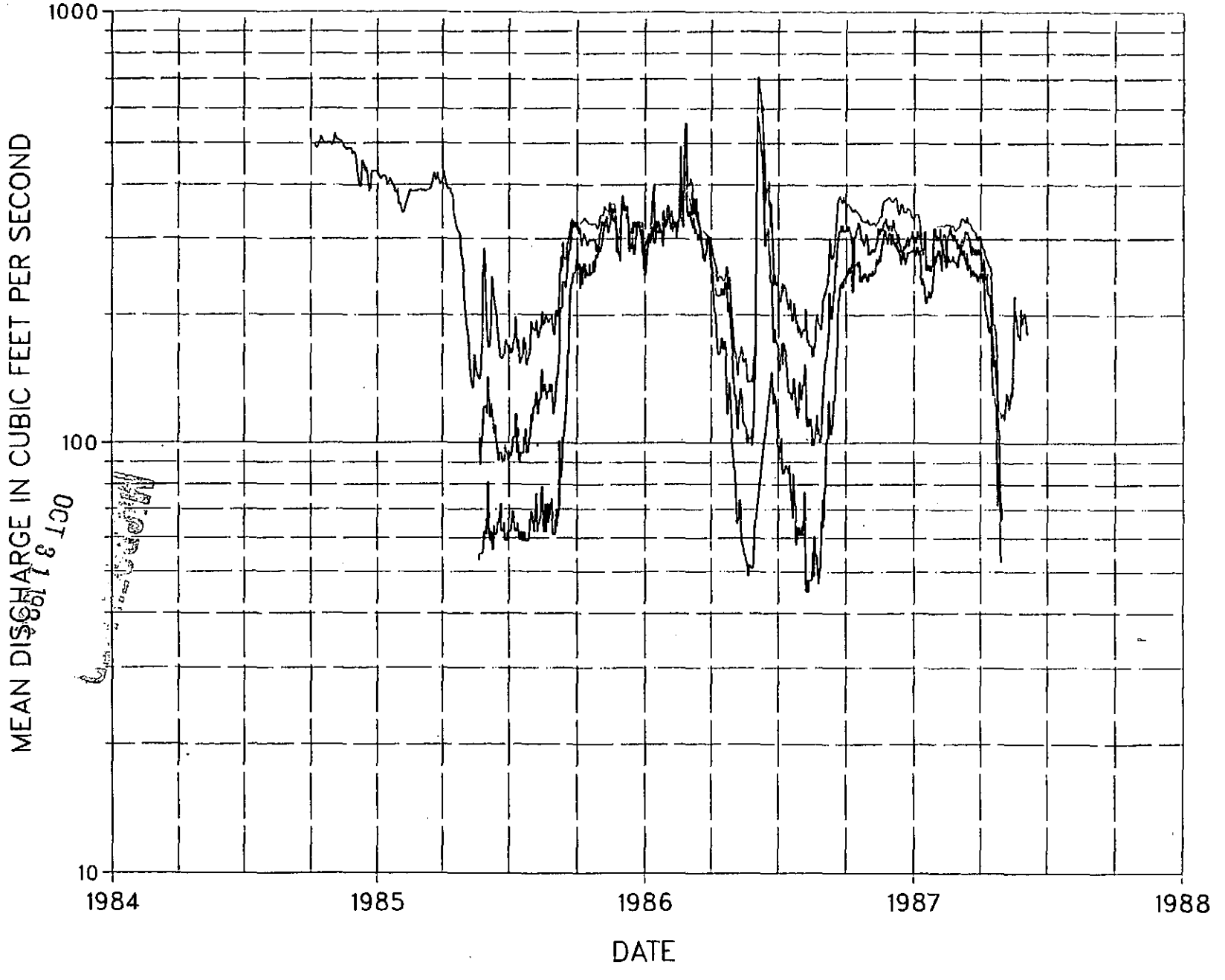
Enclosures

WAH:mr

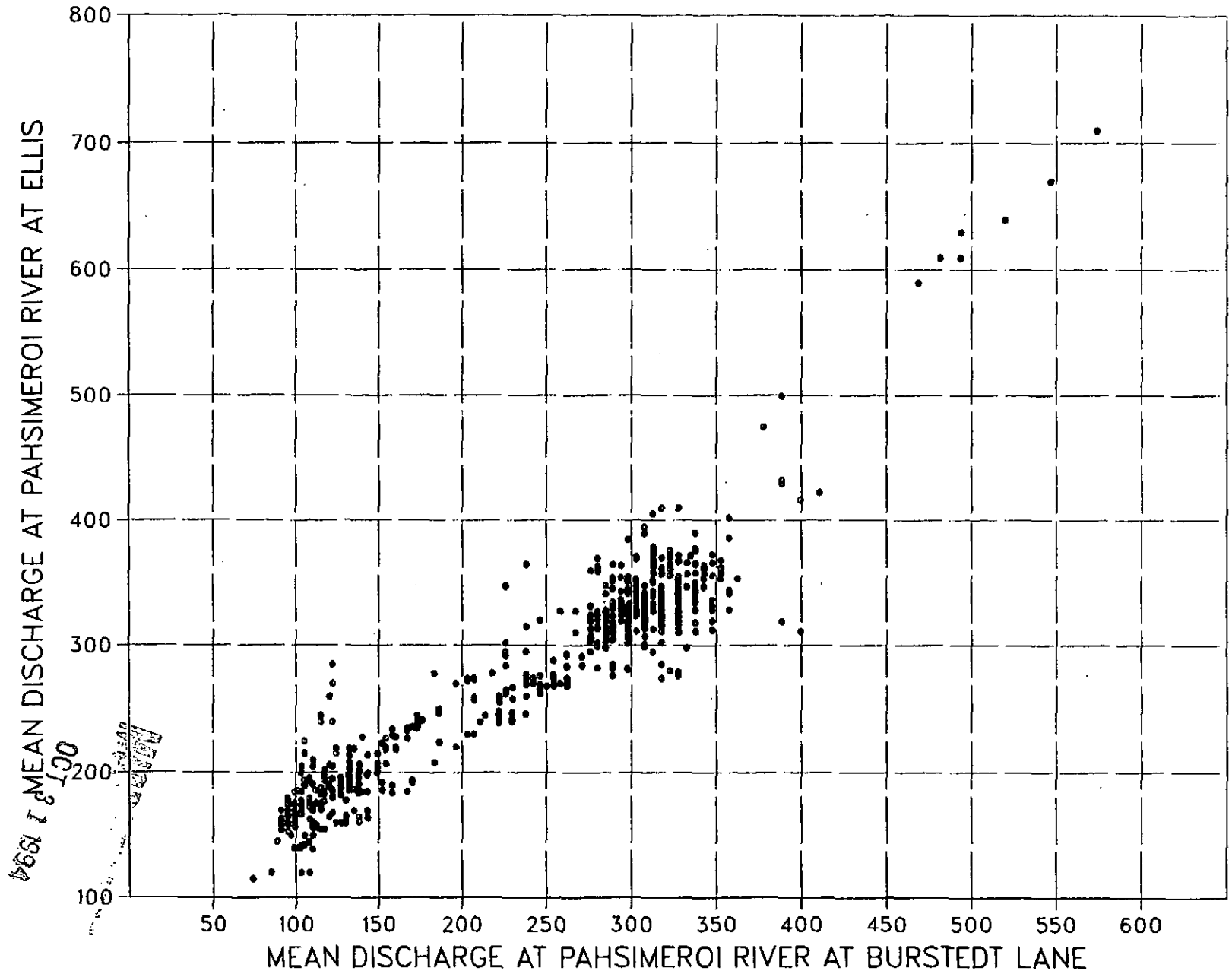
OCT 31 1994

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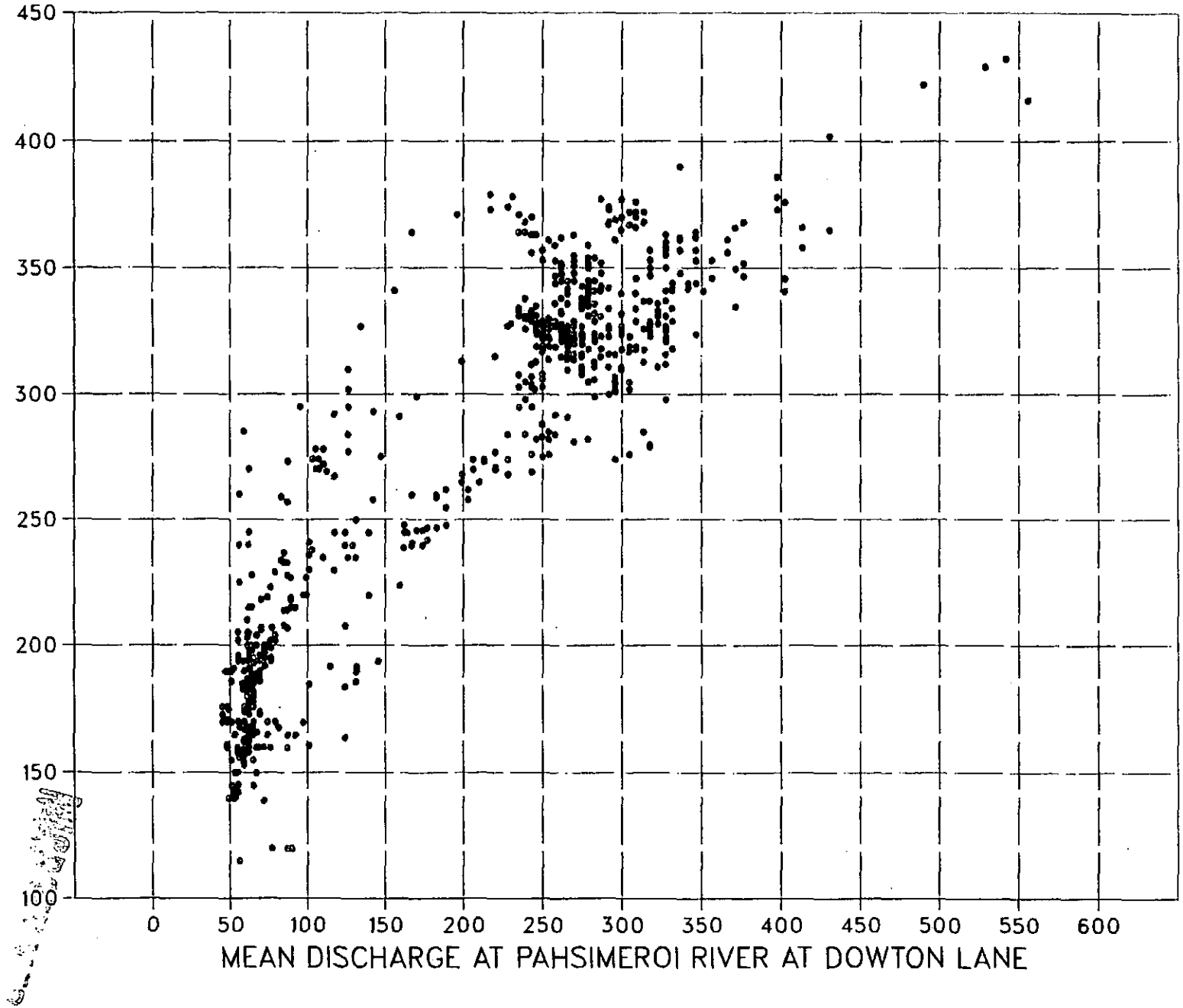
PAHSIMEROI RIVER
GAGING STATIONS



PAHSIMEROI RIVER
DISCHARGE CORRELATION

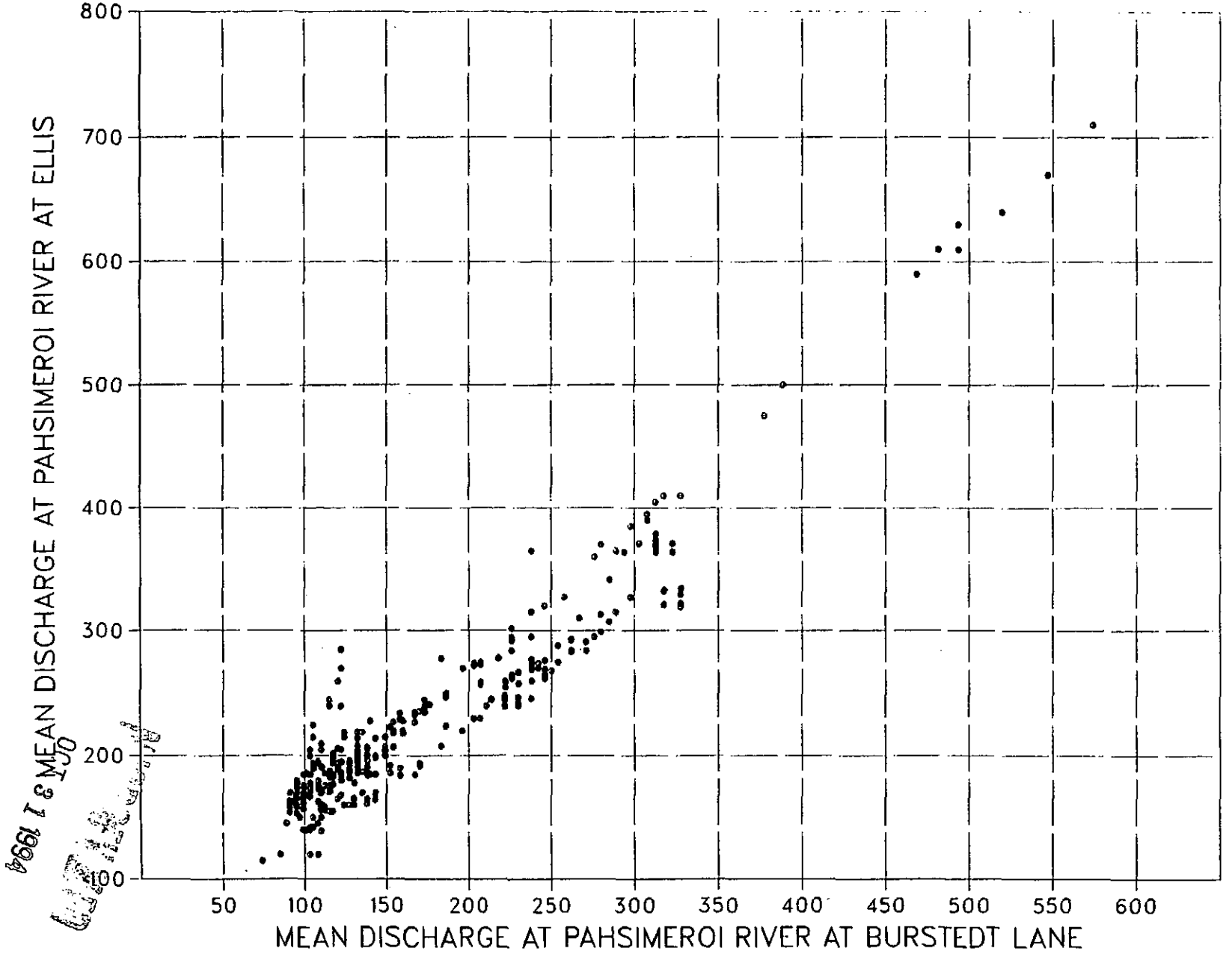


PAHSIMEROI RIVER
DISCHARGE CORRELATION

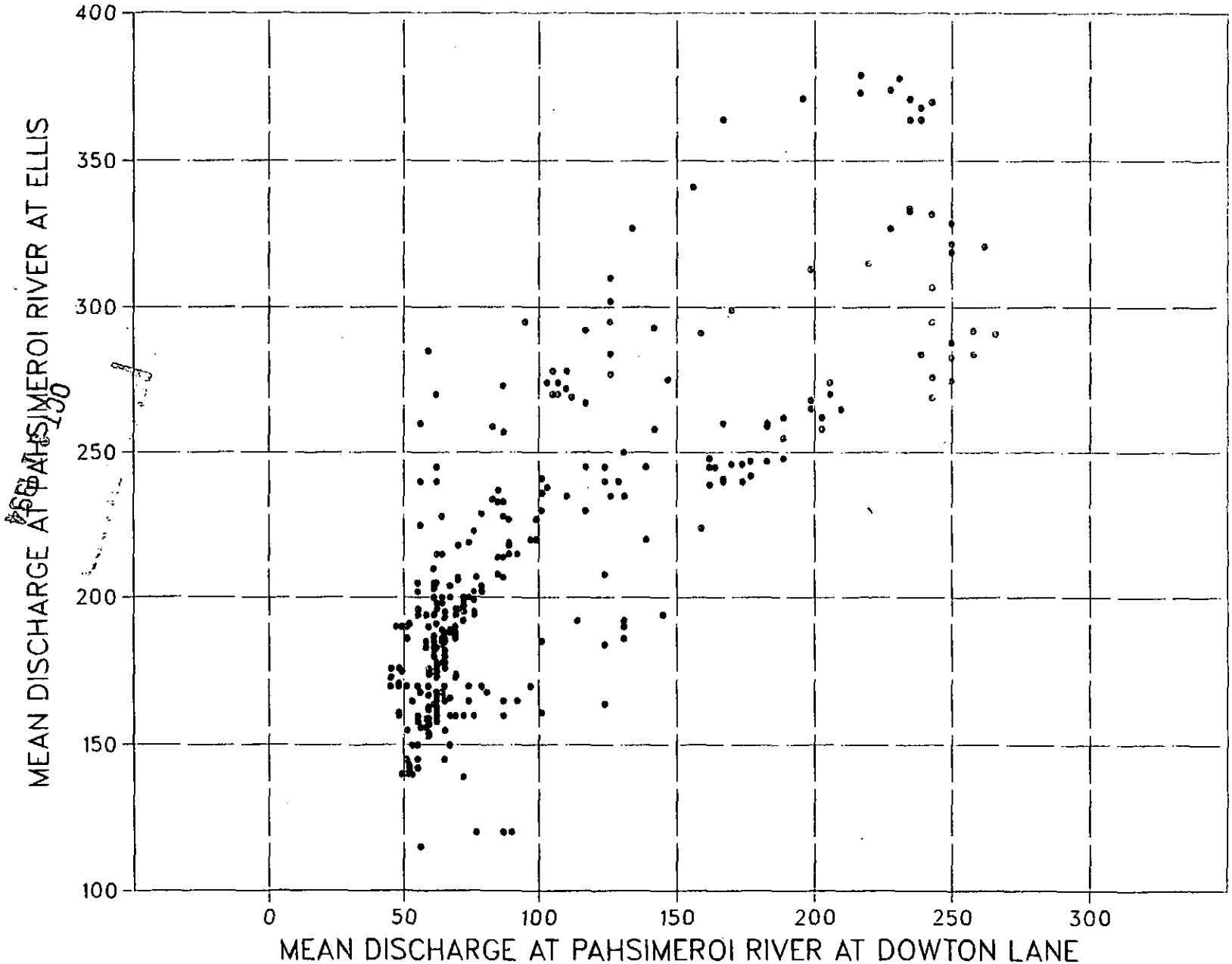


OCT 9 1984

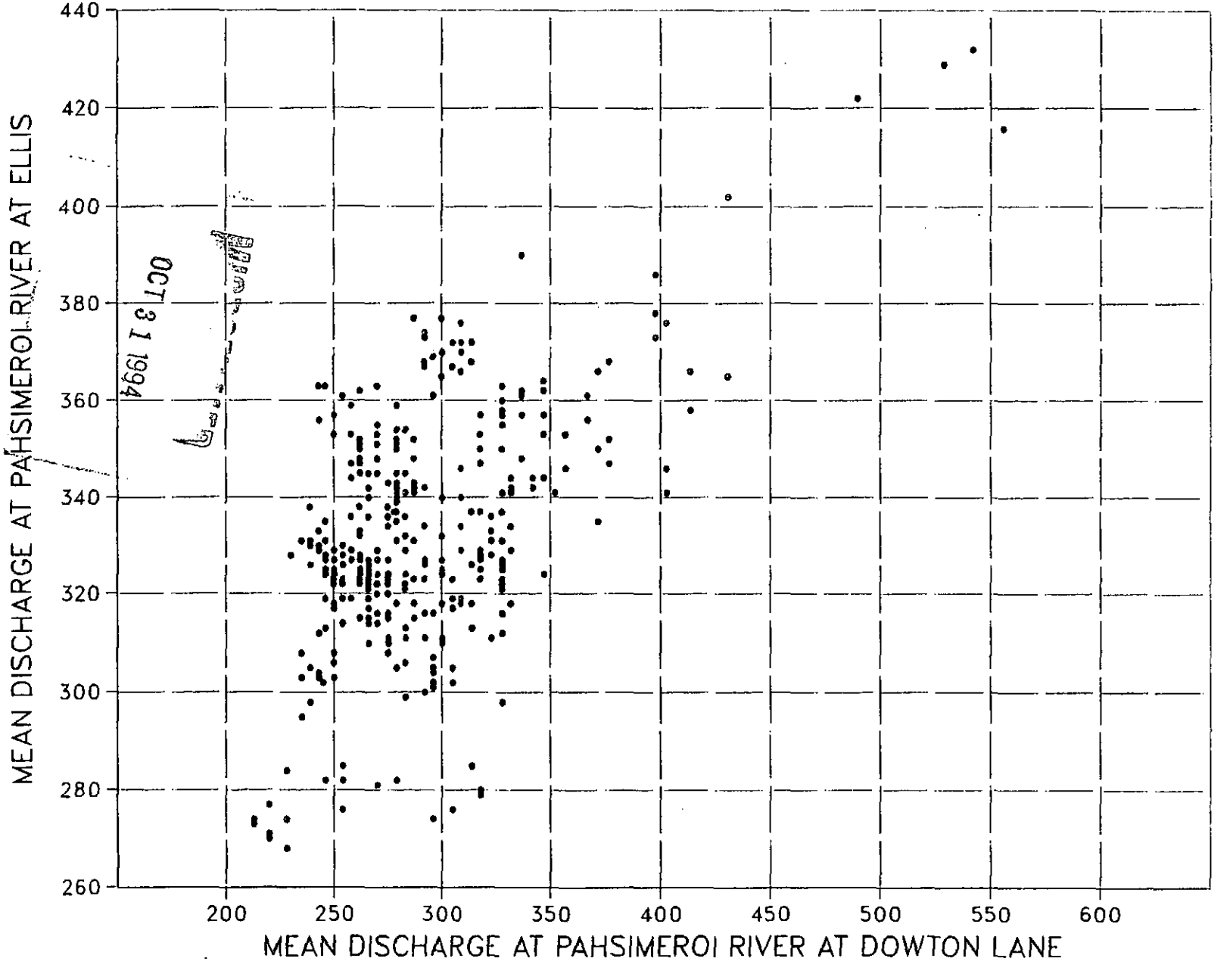
PAHSIMEROI RIVER
DISCHARGE CORRELATION -- IRRIGATION SEASION -- APRIL THROUGH SEPTEMBER



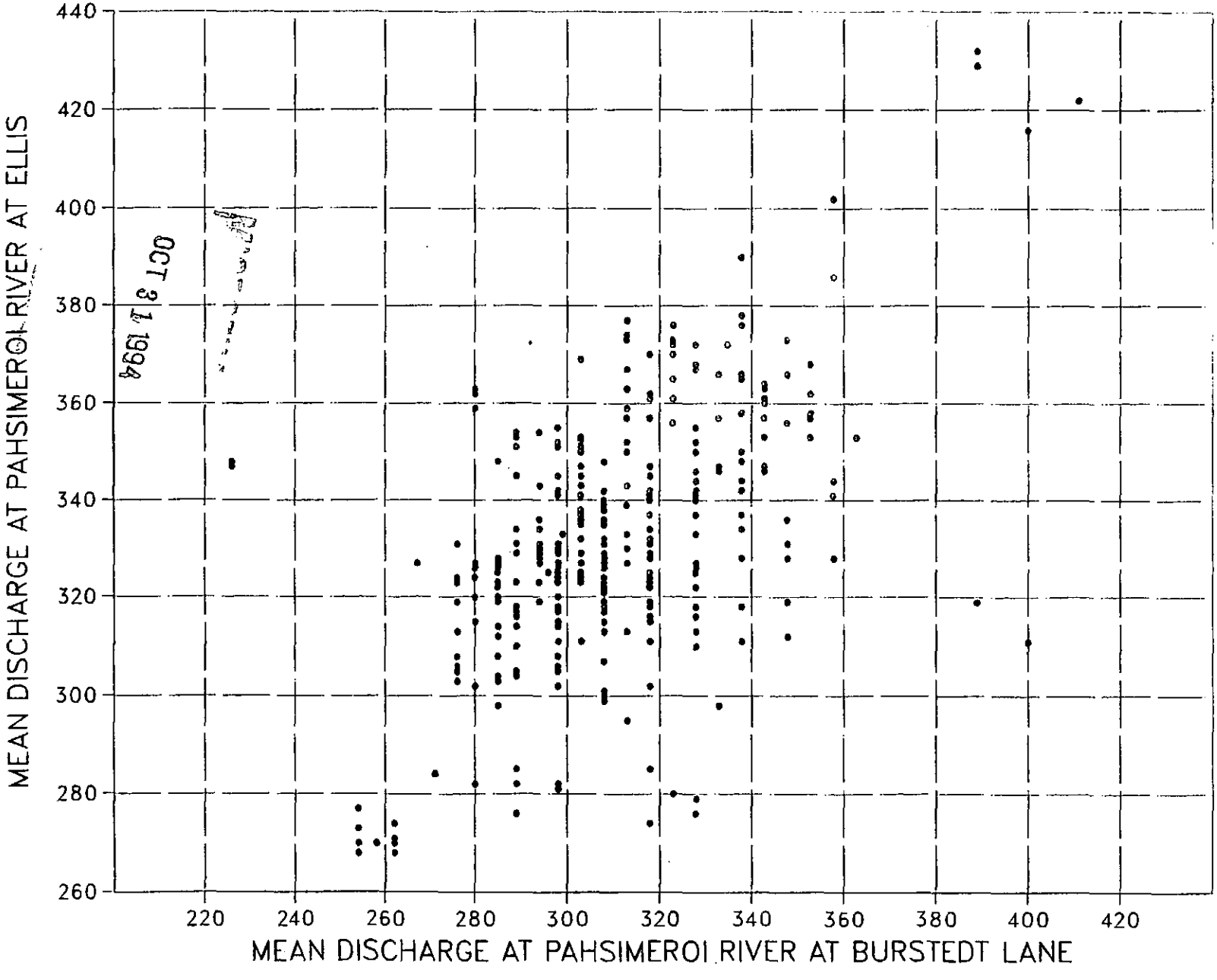
PAHSIMEROI RIVER
DISCHARGE CORRELATION -- IRRIGATION SEASON -- APRIL THROUGH SEPTEMBER



PAHSIMEROI RIVER
DISCHARGE CORRELATION -- WINTER SEASON -- OCTOBER THROUGH MARCH

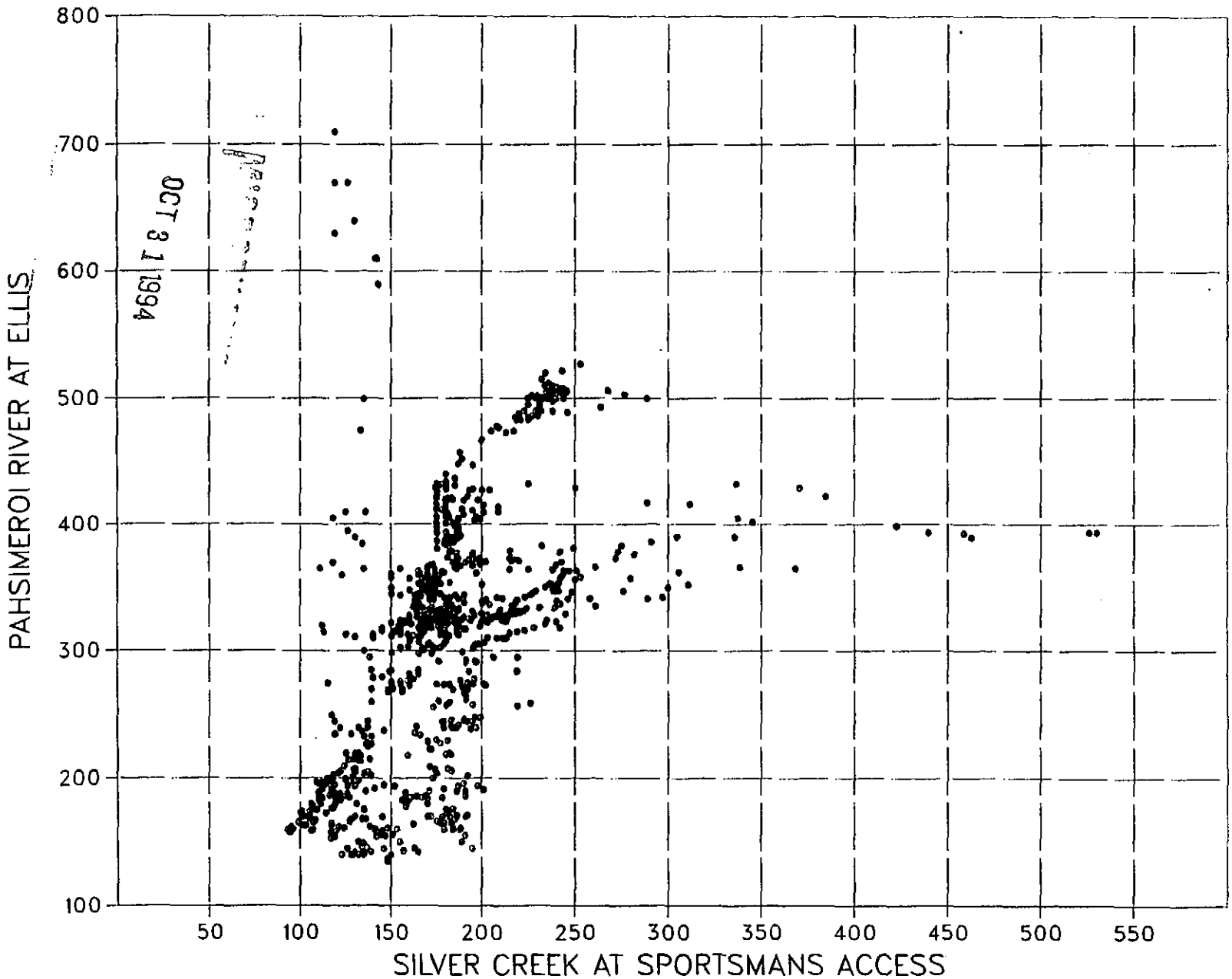


PAHSIMEROI RIVER
DISCHARGE CORRELATION -- WINTER SEASON -- OCTOBER THROUGH MARCH



OCT 31 1994

PAHSIMEROI RIVER
DISCHARGE CORRELATION WITH SILVER CREEK



IDAHO
DEPARTMENT OF FISH & GAME

Jerry M. Conley, Director

FEDERAL AID TO FISH AND WILDLIFE RESTORATION

Job Performance Report

Project F-71-R-6

REGIONAL FISHERY MANAGEMENT INVESTIGATIONS

Job VI-a. Region 6 Mountain Lake Investigations
Job VI-b. Region 6 Lowland Lakes Investigations
Job VI-c. Region 6 Stream Investigations
Job VI-d. Region 6 Technical Guidance.
Job VI-e. Region 6 Salmon and Steelhead Investigations

by

Kent Ball
Regional Fishery Manager

Virgil Moore
Regional Fishery Manager

and

James Curran
Biological Aide

OCT 31 1994

May 1982

JOB PERFORMANCE REPORT

State of Idaho Name: REGIONAL FISHERY MANAGEMENT INVESTIGATIONS

Project No. F-71-R-6

Title: Region 6 Stream Investigations

Job No. VI-c

Period Covered: 1 January 1981 to 31 December 1981

ABSTRACT

Instream flows of the lower Pahsimeroi River were measured at 12 locations before, during and after the irrigation season. There was a significant recharge of water in the lower reach of the Pahsimeroi River.

Author:

Kent Ball
Regional Fishery Manager

OCT 31 1994

RECOMMENDATIONS

Count fish in the Middle Fork Salmon River diving transects in 1982.

Initiate a creel census to document the return of hatchery fish in the upper Salmon River.

Electrofish Indian Creek, Morse Creek and upper Pahsimeroi River tributaries to assess the need for fish stocking.

Continue to assess stream resource maintenance flows for streams in Region 6.

Continue participation in the Big Lost River 208 Water Quality Project in an effort to maintain and improve fish habitat in the Big Lost River above Mackay Reservoir. Work for establishment of a 208 project in the Dry Bed of the Snake River below Menan in an effort to alleviate nonpoint source pollution that is endangering the fishery.

OBJECTIVES

To evaluate the relative abundance, catch per unit effort and size of cutthroat trout in the Middle Fork Salmon River.

To assess the toxicity of Blackbird Mine effluent on receiving waters in the Panther Creek drainage.

To evaluate fish populations, angler use and angler harvest in selected streams in Region 6.

To formulate recommendations for restocking and regulation of stream fisheries in Region 6.

TECHNIQUES USED

Pahsimeroi River

We measured the flow of the Pahsimeroi River at 12 transects on 8 dates between April and October. Standard water measurement techniques were used as described by Bovee and Milhouse (1978). Permanent transects were staked below the upper hatchery outlet, below the lower hatchery outlet and above and below diversions numbered 2/3, 4, 5, 6 and 7.

FINDINGS

Pahsimeroi River

After they received testimony at the 1980 hearing for the Pahsimeroi River instream flow application, the Idaho Water Resources Board requested more flow data for the reach of river encompassed by the application. We began measuring the river flow prior to the onset of irrigation and planned to measure the river every two weeks until after the end of the irrigation season. Data collected was reviewed in mid-June and subsequently the river was measured once per month.

A summary of the flow measurements is compiled in Table 1. On 22 and 23 April, no water was being diverted except for a small amount via ditch number 2/3. All irrigation water was turned off when the last measurements were taken on 20 October

OCT 31 1994

so flows were only measured at transects below the upper hatchery outlet, diversion number 6, and below the lower hatchery outlet.

There is a very significant recharge of water in the lower Pahsimeroi River. Even during the peak of the irrigation season, flows at the lower hatchery outlet always exceeded the flows at the upper hatchery outlet. In addition to the subsurface recharge, a large spring channel feeds into the river a short distance upstream from diversion number 6. The flow in this spring channel increases substantially after the onset of irrigation. The flows of the spring channel were not measured, but a comparison of flows between the transect below diversion number 7 and the transect above diversion number 6 can be used to approximate the spring flow. On 22 and 23 April, there was about 20 cfs in the spring channel and on 16 and 17 June, there was about 67 cfs.

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Table 1. Pahsimeroi River flow measurements (cfs), 1981.

Diversion No.[1]	Dates of measurement: Apr 22&23	May 12&13	May 28&29	Jun 15&16	Jul 13&14	Aug 10&11	Sept 11	Oct 20
UHO (B)	184	53	68	142	68	45	59	187
7 (A)	202		107	193	106	101	118	
7 (B)	202		98	193	87	84	96	
6 (A)	222		165	260	135	122	156	255
6 (B)	222		146	260	119	105	135	255
5 (A)	182		139	255	112	113	133	
5 (B)	182	109	120	236	106	91	112	
4 (A)	194	122	130	244				
4 (B)	194	122	127	244	112	96	117	
2/3 (A)	181	108	125		104	85	113	
2/3 (B)	174	103	119	206	96	75	105	
LHO (B)	198	116	150	255	129	116	145	275

[1]UHO = Upper Hatchery Outlet
LHO = Lower Hatchery Outlet
(A) = Above Diversion
(B) = Below Diversion

OCT 31 1994

LITERATURE CITED

Bovee, K., and R. Milhouse. 1978. Hydraulic simulation in instream flow studies; theory and technique. Coop Instream Flow Service Group. Fort Collins, CO. 131 pp.

OCT 31 1994

ANALYSIS SHEET
for
PROOF OF BENEFICIAL USE

Permit No. 73-7045 Date 9-25-91

GENERAL CONSIDERATIONS

- y Name same as permit?
- y Address same as permit? If no, prepare data entry form.
- Yes Proof timely received? If no, complete priority advancement below.

SOURCE OF WATER

- y Surface water source
- Ground water source
  - no Drill permit req'd?
  - Copy in file? Drill permit no. _____
  - Well log in file?
  - Amt paid for drilling permit? _____ Correct?

LICENSE EXAMINATION FEE

- no Required?
- Amount submitted?
- Correct amount?

MEASURING DEVICE

- Measuring device or access port required?
- Installed?
- Waiver requested or needed?

DEFICIENCIES OR ACTION ITEMS

Add'l Info to be Provided

Proof acceptable

Reinstate

PRIORITY CALCULATION

Date proof received	Jan 16		
Date proof due	Jan 1	-	1
No. of days late		=	15
Priority date	Dec. 19, '79	+	353
NEW PRIORITY DATE	Jan 3 - 80	=	368
			365
			3

Form 217
07/90

For Office Use Only
Amt. of Fee $_____
Date _____
Receipt No. _____
Received by _____

RECEIVED
JAN 16 1991
Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 73-7045 Telephone No. (208) 327-7900

2. Name(s) of Permit Holder(s): Idaho Water Resource Board

3. Post Office Address: Statehouse, Boise, Idaho 83720

4. Source of Water: Pahsimeroi River

   a. If ground water, well driller's name: _____ Date drilled: _____

   b. Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use:

   Domestic _____ (No. of households) Irrigation _____ (No. of acres)

   Stockwater _____ (No. and type of stock) Other Minimum streamflows to maintain trout and salmon spawning, migration and rearing habitat.

6. Total rate and/or volume for which proof is submitted _____ cfs _____ acre/feet
   Lower reach: 74 cfs; Upper reach: 45 cfs

7. Refer to the approval conditions on your permit and respond accordingly:

   Measuring device: Required? __Yes X No Installed? __Yes __No

   OR

   Flow Measurement Port: Required? __Yes X No Installed? __Yes __No

   Submittal of three years flow data and data to document usage required.

8. Fee Enclosed: $ _____ (See License Examination Fee Schedule)

9. Person to contact to accompany the Department representative during the field examination:

   Frank Sherman — Name
   327-7900 — Telephone No.

   Statehouse, Boise, Idaho 83720 — Address

10. The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

01-16-91
Date

Gene M. Gray, Chairman, IWRB
Signature (and title if on behalf of a company or organization)

RECEIVED
OCT 31 1994

January 7, 1991

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE, ID 83720

LAPSE NOTICE

RE: PERMIT NO. 73-07045

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated October 31, 1990. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifteen dollar ($15) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

L. GLEN SAXTON
Chief, Water Allocation Bureau

LGS:rf

Enclosures

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OCT 31 1994

CERTIFICATION OF MAILING

I hereby certify that on 1-10-91
~~a copy~~/an original of this document was deposited in the United States mail, postage prepaid addressed to the individual(s) named above.

138703

October 31, 1990

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE, ID 83720

PROOF DUE NOTICE

RE: PERMIT NO. 73-07045

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before January 1, 1991. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

RECEIVED
OCT 31 1994

January 17, 1989

Idaho Water Resource Board
Statehouse
Boise, ID 83720

Gentlemen:

Re: Permit No. 73-7045 - Pahsimeroi River

On November 30, 1988, I sent you a notice advising that proof of beneficial use was due for this permit. Please disregard this notice.

It was brought to my attention that an amended decision issued on this filing changed the proof due date form February 1, 1989 to January 1, 1991. Our database record has been corrected. Sixty days prior to January 1, 1991 you will again be notified of the necessity to submit proof.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

OCT 31 1994

MEMORANDUM

TO: Wayne Haas
FROM: Gary Spackman Gary
DATE: January 9, 1989
RE: Permit no. 73-7045: Pahsimeroi River

Proof of beneficial use for permit no. 73-7045, which establishes a minimum streamflow in the Pahsimeroi River, is due on February 1, 1989.

The permit establishes two minimum streamflows, 74 cfs from the mouth upstream to Big Springs, and 45 cfs from Big Springs to the Idaho Power steelhead hatchery.

The decision establishing the minimum streamflows orders that the following be submitted with proof of beneficial use: (1) Three years of flow data for the water course, and (2) Data to document usage in accordance with the purposes permitted.

Flow Data

A gauging station was established in 1984 near the mouth of the Pahsimeroi (Ellis gauge) and is still operating. Two other gauges, one at the upstream end of the minimum flow reaches, and the other approximately halfway between the mouth and the upstream end, were maintained for two years, from May, 1985 through April 1987. Fish & Game paid for by maintenance of the gauges.

Flow data in excess of three years is available from the gauge located at the mouth. The data would pertain only to the 74 cfs minimum streamflow in the lower subreach. Only two years of data has been gathered in the upper subreach.

I called Bill Horton of Fish & Game, and inquired why the data collection wasn't continued for another year. I also inquired whether Fish & Game wanted to ask the Board to file an extension of time to gather the additional data. Bill said he would respond this week.

Broadly speaking, three years of data on the water course is available from the Ellis gauge. I believe the conditions of the order could be technically satisfied, although the upstream subreach is not supported by three years of pertinent data.

Bill Horton expressed concern about the flow in data gathering, however, and asked that he be allowed to consult others at Fish & Game to determine the need for another year of data.

I suggest that the Board file proof of beneficial use. If Fish & Game wants to gauge the upper subreach for another year, however, I suggest that the Board file a request for extension of time.

OCT 31 1994

Data Regarding Beneficial Use

Bill Horton stated that Fish & Game would provide data regarding fish spawning and rearing to the department prior to February 1, 1989, unless a request for extension of time is filed.

OCT 31 1994

November 30, 1988

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE, ID 83720

13879 1

PROOF DUE NOTICE

RE: PERMIT NO. 73-07045

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before Febarary 1, 1989. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully compeleted your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

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OCT 31 1994

August 1, 1988

L.L. Anderson
Box 184
Central, ID 83241

Dear Mr. Anderson:

The Department of Fish and Game has submitted three years of flow data for the Pahsimeroi River and our Department is reviewing the data as required by the Memorandum Decision and Order approving the minimum stream flow on the river.

Enclosed are copies of hydrographs comparing the mean daily discharges from the Pahsimeroi River. Please review these and if you have any comments, please submit them to our office to the attention of Gary Spackman.

Sincerely,

RONALD D. HOWERTON
Draftsman

RDC:sc

Enclosures

OCT 3 1 1994

MEMORANDUM

TO: Alan Robertson

FROM: Gary Spackman Gary

DATE: August 8, 1988

RE: Request for Evaluation of Stream Flow Data for Pahsimeroi River, Permit No. 73-7045

Minimum stream flow Permit No. 73-7045 establishes a minimum stream flow in the Pahsimeroi River. As a condition to the permit, fish and game was required to submit " . . . at three years of flow data for the water course and data to document usage in accordance with the purposes permitted. The frequency of data accumulation must be submitted to the Director for review and approved."

I request that someone in hydrology evaluate the data, and report whether the frequency of data accumulation is sufficient to establish the flows of the Pahsimeroi River during the measurement years.

I do not know what the historical records are, or how they compare to the stream flow data. Perhaps we should compare recorded data with the data that has been provided to us.

OCT 31 199

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NOV 21 1986
Department of Water Resources

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

JIM JONES
ATTORNEY GENERAL
STEPHEN V. GODDARD
SUSAN MATTOS
DEPUTY ATTORNEYS GENERAL
IDAHO DEPARTMENT OF FISH AND GAME

600 S. WALNUT ST.
P.O. BOX 25
BOISE, IDAHO 83707
(208) 334-3715

November 20, 1986

Mr. A. Kenneth Dunn, Director
Idaho Dept. of Water Resources
STATEHOUSE
Boise, ID 83720

Re: Application for Permit No. 73-7045 to Establish a Minimum Stream Flow in the Pahsimerol River in the Name of the Water Resource Board

Dear Mr. Dunn:

Pursuant to the stipulated agreement filed on January 6, 1986 in the Fourth Judicial District, Case No. 84-991, I am providing the Water Resources Department with the following items to be included in the record of this proceeding:

1. Seven aerial photographs identifying and showing the locations of the water diversion structures in the Pahsimerol River Valley.

2. Photographs (2) of the headgate and the typical ditch below the headgate for diversion P-2/3, taken August 5, 1986.

3. Photographs (4) of the headgate (old), headgate (to be installed), headgate, ditch and fish screen and typical ditch (below screen) for diversion P-4, taken August 5, 1986.

4. Photographs (3) of the headgate, fish screen and headgate and typical ditch (below screen) for diversion P-4A, taken August 5, 1986.

5. Photographs (4) of the headgate, spillway, headgate and typical ditch (above screen) for diversion P-5, taken August 5, 1986.

6. Photographs (3) of the headgate, fish screen and ditch and typical ditch (below screen) for diversion P-6, dated August 5, 1986.

OCT 31 1994

7. Photographs (3) of the headgate, headgate and spillway and typical ditch (below screen) for diversion P-7, dated August 5, 1986.

8. Photographs (2) of the headgate and typical ditch (below headgate) for diversion P-8, dated August 5, 1986.

9. Photographs (3) of the headgate and spillway, fish screen and typical ditch (below screen) for diversion P-8A, dated August 20, 1986.

10. Photographs (4) of the headgate, spillway, fish screen and typical ditch (below screen) for diversion P-9, dated August 20, 1986.

11. Photographs (3) of the headgate, fish screen and ditch and typical ditch for diversion P-10, dated August 20, 1986.

12. Photographs (3) of the headgate, fish screen and typical ditch (below fish screen) for diversion P-11, dated August 20, 1986.

13. Photographs (3) of the headgate, stream diversion and fish screen and typical ditch diversion P-12, dated August 20, 1986.

14. Photographs (2) of the old headgate site and ditch below old fish screen for diversion P-13, dated August 20, 1986.

15. Letter dated May 27, 1986, from U.S. Geological Survey to Stephen Goddard, showing the results of the May 1986 inflow/outflow study of the reach of the Pahsimeroi River from Dowton Lane to Burstedt Lane.

16. Letter dated July 18, 1986, from U.S. Geological Survey to Stephen Goddard, showing the results of the June 1986 inflow/outflow study of the reach of the Pahsimeroi River from Dowton to Burstedt Lane.

17. Memorandum dated November 12, 1986, from Bill Gross to Steve Goddard regarding the Pahsimeroi River-Irrigation Ditch Survey. Attached are a diagram of the headgate measurement method and the irrigation ditch measurement method, and Table of the Pahsimeroi River Irrigation ditch measurements, August 1986.

If you have any questions or need any clarification concerning any of these items, please let me know.

Sincerely,

Stephen Goddard

Stephen V. Goddard
Deputy Attorney General
Idaho Dept. of Fish and Game

SVG:tlv

Attachments

cc: Service List

OCT 31 1994

United States Department of the Interior

GEOLOGICAL SURVEY

RECEIVED
NOV 21 1986
Department of Water Resou

WATER RESOURCES DIVISION
IDAHO OFFICE
230 Collins Road
Boise, Idaho 83702

May 27, 1986

Mr. Stephen V. Goddard
Deputy Attorney General
Department of Fish and Game
600 S. Walnut Street
Boise, ID 83707

Dear Mr. Goddard:

These are the results of the May 1986 inflow/outflow study of the reach of the Pahsimeroi River from Dowton Lane to Burstedt Lane:

Flow at Dowton Lane	55 cfs
Surface-water inflows	49 cfs
Surface-water diversions	65 cfs
Flow at Burstedt Lane	102 cfs
Apparent ground-water contribution	63 cfs

The data were collected from May 19-21, 1986.

If you have any questions, please contact Bob Harper 334-1206.

Sincerely,

Jerry L. Hughes
Idaho Office Chief

SAF/jb

MAY 29 1986

OCT 31 1994

United States Department of the Interior
GEOLOGICAL SURVEY

WATER RESOURCES DIVISION
IDAHO OFFICE
230 Collins Road
Boise, Idaho 83702

RECEIVED
NOV 21 1986
Department of Water Resou

July 18, 1986

Mr. Stephen V. Goddard
Deputy Attorney General
Department of Fish and Game
600 S. Walnut Street
Boise, ID 83703

Dear Mr. Goddard:

This letter presents the results of the June 1986, inflow/outflow study of the reach of the Pahsimeroi River from Dowton to Burstedt Lane. For your convenience, I am relisting the data from the May study as follows:

	MAY DATA	JUNE DATA
Flow at Dowton Lane	55 cfs	146 cfs
Surface-water inflows	49 cfs	85 cfs
Surface-water diversions	65 cfs	100 cfs
Flow at Burstedt Lane	102 cfs	170 cfs
Apparent ground-water contribution	63 cfs	39 cfs

These data were collected May 19 - 21, and June 25 - 26, 1986.

If you have any questions, please call me at 334-1206.

Sincerely,

Robert W Harper

R.W. Harper
Chief, Hydrologic Data Section

OCT 31 1994
JUL 22 1986

RECEIVED
NOV 21 1986
Department of Water Resources

State of Idaho
Department of Fish and Game
Salmon, Idaho

November 12, 1986

M E M O R A N D U M

FROM: Bill Gross BG

TO: Steve Goddard

SUBJECT: Pahsimeroi River - Irrigation Ditch Survey

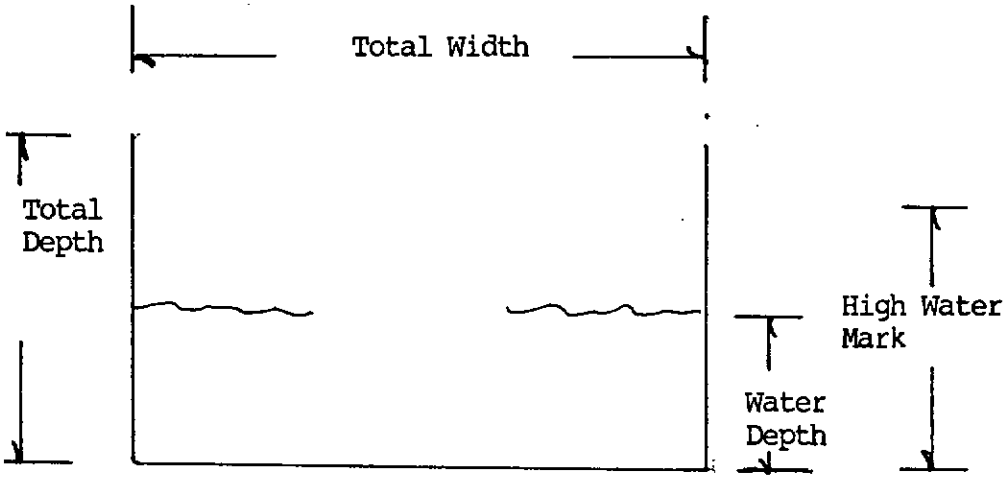
cc: Mel Reingold

The attached data and photographs were obtained on August 5, 1986 by Mel Reingold and myself and on August 20, 1986 by myself. The aerial photographs are marked as nearly as possible to the point of diversion for the respective irrigation ditches. The nomenclature used is our system for numbering fish screens.

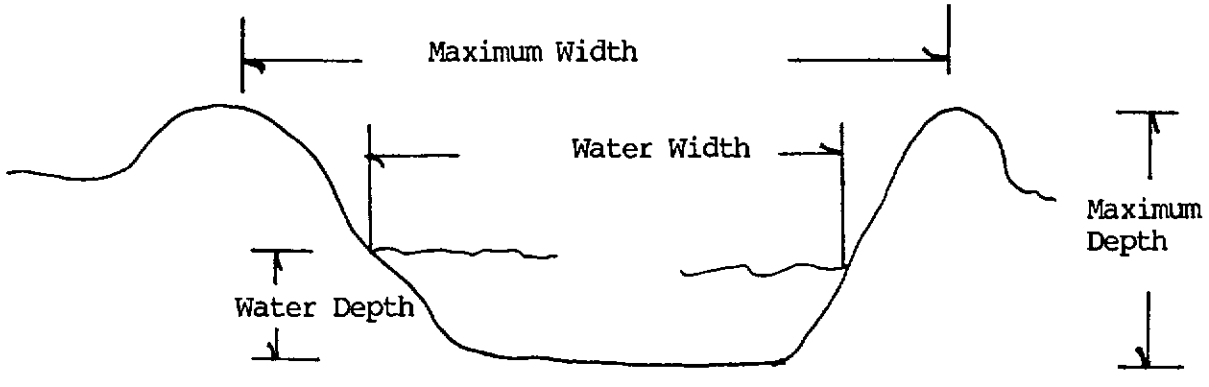
If we can be of further assistance, please call on us.

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OCT 31 1994

HEADGATE MEASUREMENT METHOD



IRRIGATION DITCH MEASUREMENT METHOD



OCT 3 1 1994

PAHSIMEROI RIVER IRRIGATION DITCH MEASUREMENTS
AUGUST, 1986

Ditch	Headgate Total Width	Headgate Total Depth	Headgate-Water Depth	Headgate-High Water Mark	Ditch-Max. Width	Ditch-Max. Depth	Ditch Water Width	Ditch Water Depth	Comments
P-1									Water is not drawn from the river.
P-2/3					20.0'	2.0'	Off	Off	Headgate is a 30" X 42" culvert pipe with slidegate.
P-4	6.0'	5.0'	Off	3.0'	17.0'	4.0'	13.0'	2.0'	Headgate will be replaced with a 30" X 42" culvert pipe with slidegate. Material was on-site.
P-4A	5.0'	3.0'	Off	1.5'	15.0'	4.0'	Off	Off	Not used in recent years.
P-5					25.0'	5.0'	14.0'	3.0'	72" culvert pipe with slidegate.
P-6	6.2'	4.0'	2.0'	2.5'	20.0'	5.0'	14.0'	3.0'	
P-7	6.3'	5.0'	2.7'	3.5'	15.0'	6.0'	13.0'	2.1'	
P-8	6.7'	5.6'	1.9'	2.6'	8.2'	5.6'	6.7'	1.2'	
P-8A	6.3'	4.7'	2.6'	3.6'	11.0'	3.0'	7.0'	1.4'	
P-9	12.7'	4.7'	2.9'	4.0'	20.0'	4.0'	14.0'	1.9'	
P-10	6.0'	4.6'	1.3'	2.8'	20.0'	4.0'	6.6'	0.4'	
P-11	8.2'	4.7'	2.6'	4.0'	20.0'	4.0'	16.0'	1.9'	
P-12	8.0'	3.8'	1.0'	2.6'	25.0'	4.0'	19.0'	2.2'	
P-13					25.0'	4.2'	13.0'	0.6'	Headgate has been washed out and fish screen removed.

OCT 31 1994

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

January 9, 1986

RE: Application for Permit No. 73-7045 - Idaho Water Resource Board
Pahsimeroi Minimum Instream Flow Application

Dear Interested Party:

Enclosed for your information is a copy of the Director's amended decision in connection with the above-referenced application for permit. The decision describes the history of events that have taken place since the original decision was issued on January 4, 1984.

The copy is forwarded since the file in the matter indicates you are interested in the final decision.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

ls

Enclosures

RECEIVED
DEC 17 1986

Interested Party Mailing List for WR No. 73-7045 MSF

Ralph Hatch
Ellis, ID 83235

M. Reed Hansen
Route 5, Box 213
Idaho Falls, ID 83401

Sally L. Cupan
515 S. Boyer Avenue
Sandpoint, ID 83864

Scott W. Reed
P.O. Box A
Coeur d'Alene, ID 83814

Donald R. Kramer
Castleford, ID 83321

Syd Dowton
Salmon, ID 83467

Jimmie L. Dowton
May, ID 83253

Roy Ellis
Ellis, ID 83235

Dow O'Neal
May, ID 83253

John Buggenkamp
May, ID 83253

Vaughn Higbee
Ellis, ID 83235

Louie Demrest
Salmon, ID 83467

Franklin Jones
4209 Catalpa Drive
Boise, ID 83703

Ray Infnager
Salmon, ID 83467

Don Blatz
Ellis, ID 83235

John White
Box 1944
Salmon, ID 83467

Fidele Amar
Ellis, ID 83235

G.W. Welch
Idaho Dept. of Fish and Game
Box 787
Challis, ID 83226

Kent Ball
Idaho Dept. of Fish and Game
Box 1336
Salmon, ID 83467

Worth Boggeman
Ellis, ID 83235

Nadine Chaffee
May, ID 83253

Jim Bob Infanger
Salmon, ID 83467

Mary B. Boggeman
Ellis, ID 83235

Charles Kesl
May, ID 83253

J.R. Bennetts
Challis, ID 83226

James N. Hawkins
Challis, ID 83226

Ray Horn
May, ID 83253

Ray Ellis
Ellis, ID 83235

Duane Moen
May, ID 83253

Rance Bare
1445 Scorplus Drive
Idaho Falls, ID 83401

Tom Reinecker
Idaho Dept. of Fish and Game
1515 Lincoln Road
Idaho Falls, ID 83401

Larry Wymer
Idaho Power Company
Box 70
Boise, ID 83701

Mel Reingold
Box 1336
Salmon, ID 83467

Bob Moore
Box 85
Ellis, ID 83235

Wayne E. Tibbitts
Lorenzo Rt., Box 212
Rigby, ID 83442

R. John Insinger
Risch, Goss, Insinger
& Salladay
407 W. Jefferson
Boise, ID 83702

MICROFILMED
DEC 17 1986

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

January 9, 1986

Gene M. Gray, Chairman
Idaho Water Resource Board
Statehouse Mail
Boise, ID 83720

Dear Mr. Gray:

Re: Application for Permit No. 73-7045

Enclosed is a copy of the approved Application for Permit No. 73-7045 along with a copy of the Amended Memorandum Decision and Order. Please note the conditions of approval as set forth in the Order.

Any person who does not agree with the decision of the Department may request a rehearing before the Director within twenty (20) days, or may appeal directly to the district court within thirty (30) days of the date the decision is mailed.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

ls

Enclosures

cc: Idaho Water Resource Board Members
Virgil Moore and Steve Goddard, Idaho Department of Fish and Game
L.L. Anderson
R. John Insinger

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DEC 17 1986

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

January 9, 1985

The Honorable Tom W. Stivers
Speaker of the House
Statehouse
Boise, ID 83720

Re: Water Right Application for Permit for Minimum Stream Flow,
No. 73-7045, Pahsimeroi River

Dear Mr. Speaker:

Enclosed please find a copy of the above-referenced Application for Permit, including the Amended Memorandum Decision and Order which was issued on January 8, 1986.

As you are aware, Section 42-1503, Idaho Code, requires that this application must be reviewed by the legislature. As defined by statute, each application "(i) shall not become finally effective until affirmatively acted upon by concurrent resolution of the Idaho legislature; or (ii) except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved."

Copies of the Amended Memorandum Decision and Order were mailed to full parties and interested parties on January 8, 1986. Any person aggrieved by the Amended Memorandum Decision and Order is entitled to request a rehearing before the Director within twenty (20) days, or to appeal the decision to the district court within thirty (30) days of the date the decision was mailed.

Please advise me if you desire further information or a presentation on the nature of the application.

Sincerely,

A. KENNETH DUNN
Director

ls

Enclosures cc: Legislative Council

MICROFILMED
DEC 17 1985

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

January 9, 1986

Senator James Risch
Pres. Senate Pro Tem
Statehouse
Boise, ID 83720

Re: Water Right Application for Permit for Minimum Stream Flow,
No. 73-7045, Pahsimeroi River

Dear Mr. President Pro Tem:

Enclosed please find a copy of the above-referenced Application for Permit, including the Amended Memorandum Decision and Order which was issued on January 9, 1986.

As you are aware, Section 42-1503, Idaho Code, requires that this application must be reviewed by the legislature. As defined by statute, each application "(i) shall not become finally effective until affirmatively acted upon by concurrent resolution of the Idaho legislature; or (ii) except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved."

Copies of the Amended Memorandum Decision and Order were mailed to full parties and interested parties on January 9, 1986. Any person aggrieved by the Amended Memorandum Decision and Order is entitled to request a rehearing before the Director within twenty (20) days, or to appeal the decision to the district court within thirty (30) days of the date the decision was mailed.

Please advise me if you desire further information or a presentation on the nature of the application.

RECEIVED
DEC 17 1985

Sincerely,

A. KENNETH DUNN
Director

ls

Enclosures cc: Legislative Council

INTER-DEPARTMENT MEMO — 1

DATE 2-23-84

FROM Rita Fleck

TO File 73-7045 Pahsimeroi Minimum Instream Flow Application

SUBJECT Visual Aids

The visual aids for presentation are located in Ron Howerton's file.

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SIGNATURE

STATE OF IDAHO

OFFICE OF ATTORNEY GENERAL

JIM JONES
ATTORNEY GENERAL

BOISE 83720

TELEPHONE
(208) 334-2400

February 17, 1984

Senator Laird Noh
Idaho Senate
Statehouse

HAND DELIVERY

Re: Legislative Consideration of Minimum Stream Flows

Dear Senator Noh:

Two minimum stream flow applications as approved by the director of the Department of Water Resources have been submitted to the legislature under Idaho Code § 42-1503. Senate Concurrent Resolution No. 112 embodies the director's decision approving a minimum stream flow on the Henry's Fork. That decision is currently on appeal in state district court. Senate Concurrent Resolution No. 113 embodies the director's decision approving a minimum stream flow on the Teksimeroi River. A rehearing has been requested of that decision.

You have asked what effect these pending proceedings have on the legislature's consideration of the minimum stream flows. Our conclusion is that the minimum stream flows should not yet be before the legislature. While, for the sake of responding to your question in a timely manner we have not undertaken the research and analysis appropriate for a full attorney general's opinion on this subject, we think that a common sense reading of Section 42-1503 and a consideration of practical consequences would more than justify reliance upon our conclusion.

Section 42-1503 requires the director of the Department of Water Resources to approve or reject an application for a minimum stream flow. If he approves the minimum stream flow, the approved application "shall be submitted to each Legislature by the fifth legislative day of each regular session . . ." for action by the legislature. I.C. § 42-1503. A strict reading of this provision would be that the director has no choice but to forward the minimum stream flow to the legislature upon his approval of the minimum stream flow. However, Section 42-1503 also provides that persons aggrieved by the director's decision on a minimum stream flow application may seek judicial review in district court under the Administrative Procedures Act. See § 42-1701A(4). Upon review, the district court may affirm,

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reverse, modify, or remand the director's decision. I.C. § 67-5215(g). An obvious result is that the director's decision - i.e., the minimum stream flow as approved by the director--ultimately might be altered significantly from that which he would submit to the legislature absent an appeal.

Similarly, an aggrieved party may petition for a rehearing of the decision of the director, and the substance of the decision might undergo change. Department of Water Resources, Practice and Procedure Rules and Regulations, Rule 11.

A court probably would construe Section 42-1503 to preclude legislative consideration of a minimum stream flow while the director's approval of the minimum stream flow is under appeal or rehearing. Courts generally avoid constructions of statutes which would produce absurd or harsh results, Gavica v. Hanson, 101 Idaho 58, 608 P.2d 861 (1980), or render parts of a statute superfluous. Walker v. Nationwide Financial Corp. of Idaho, 102 Idaho 266, 629 P.2d 662 (1981). If a court were to adopt a strict reading of Section 42-1503--that the director must submit a minimum stream flow to the legislature regardless of pending appeal or rehearing--the section's express provision for judicial review would be rendered superfluous. Moreover, the legislature would be put in the position of having to act upon an agency decision vulnerable to subsequent modification by the courts or by the agency itself. Finally, and perhaps most importantly, if a court were to uphold legislative action upon a minimum stream flow while that minimum stream flow was under appeal or rehearing, the statutory procedural rights of the party appealing the minimum stream flow would be impaired. Such an application of Section 42-1503 probably would violate constitutional guaranties of due process. A court would attempt to avoid a construction of Section 42-1503 which would lead to the section being nullified as unconstitutional. State v. Rawson, 100 Idaho 308, 597 P.2d 31 (1979); Scandrett v. Shoshone County, 63 Idaho 46, 116 P.2d 225 (1941).

In sum, a minimum stream flow probably cannot be submitted to the legislature or be acted upon by the legislature until all administrative and judicial review of the agency decision approving the minimum stream flow is exhausted.

Sincerely,

Patrick J. Kole

Patrick J. Kole
Deputy Attorney General
Chief, Natural Resources

KB:ams

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State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

February 2, 1984

Dear Interested Party:

Re: Minimum Instream Flow Applications for Permits
21-7282 -- Henry's Fork
73-7045 -- Pahsimeroi River

Attached is a copy of the letter indicating that the above-referenced minimum instream flow applications for permit have been approved by the Department and forwarded to the Legislature for their consideration this session.

This is forwarded in an effort to keep you appraised of current activity relative to the permits.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Attachment

Copies sent to:
Syd Dowton
Ralph Hatch
Jimmie L. Dowton
Roy Ellis
Dow O'Neal
John Buggenkamp
Vaughn Higbee
Louie Demrest

Fremont County Plan. & Zon. Commission
Montana Power Co.
Bob Moore
Mel Reingold
Larry Wymer (IPCo)
Rance Bare
Duane Moen
Ray Infanger
Don Blatz
Fidele Amar
Kent Ball (F&G)
Worth Boggeman
L. L. Anderson
Nadine Chaffee
Jim Bob Inganger
John Arkoosh
D. Christiansen (P&R)
Kurt Burholder (P&R)
Wayne Tibbitts
T. Reinecker (F&G)
Dave Hansen (F&G)
John White
G. W. Welch (F&G)
Steve Goddard (F&G)
Charles Kesl
J. R. Bennetts
James N. Hawkins
Ray Horn

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JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226

(208) 879-4488

RECEIVED
JAN 30 1984
Department of Water Resources

January 27, 1984

A. Kenneth Dunn, Director
State of Idaho
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Re: Petition for Re-hearing
Pahsimeroi Minimum Stream Flow

Dear Ken:

I am very confused as to what is transpiring on the above proceedings. It is my understanding that the Water Resource Board, the Applicant in this matter, consented to your Order and agreed to abide by the terms of the Order. Upon that basis, my clients were agreeable to let the Order stand, subject to the right of review by the Department if and when there was a substantial change in the factual circumstances surrounding the matter.

As I see it, the Board has, in effect, been offered a choice between having their application rejected or of receiving a conditional Order. They voluntarily chose the conditional order. So far as they are concerned, it would appear to be immaterial whether you, as Director, lacked authority to make such an order or not.

Secondly, while we are questioning authority, we may as well review the Fish and Game Department's authority to take control of the Board's application. If the legislature had intended such interpretation of the Minimum Stream Flow legislation, they would not have limited the authority to make application solely to the Board. If the Department is to be permitted to take charge of the application at this point, we may as well let them initiate the permit in the first instance and dissolve the Board.

Very truly yours,

James R. Bennetts

JRB:dl
cc: Steve Goddard

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State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

January 10, 1984

The Honorable Thomas Stivers
Speaker of the House
Statehouse
Boise, ID 83720

Dear Mr. Speaker:

Enclosed please find copies of the two applications for permit to appropriate water for minimum stream flow purposes that were approved by this Department during the past year.

Application No. 21-7282, for which the source is the Henrys Fork, was approved on May 12, 1983. The approval was subsequently appealed to the District Court of the Seventh Judicial District by one of the full parties in the action, Montana Power Company. Currently the Court is awaiting a brief from the appellant in this case.

Application No. 73-7045, for which the source is the Pahsimeroi River, was approved on January 4, 1984. Full parties may request a rehearing until January 25, 1984, or may appeal directly to the District Court until February 4, 1984.

As you are aware, Section 42-1503, Idaho Code requires that these applications must be reviewed by the legislature. As defined by the statute, each application "(i) shall not become finally effective until affirmatively acted upon by concurrent resolution of the Idaho legislature; or (ii) except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved."

Please advise me if you desire either further information or a presentation on the nature of the applications.

Sincerely,

A. Kenneth Dunn

A. KENNETH DUNN
Director

AKD:DRT:sc

Enclosures

MINIMUM STREAMFLOW REQUEST/APPLICATION

PROCESSING CHECKLIST

	ASSIGNED TO	INITIALS/DATE
1. Request received and checklist attached.	Receptionist	✓ RG 12-19-79
2. Request indexed.	Records Chief	RG 1-15-80
3. Preliminary review. Application prepared for signature.	Section Supv.	✓
4. Streamflow information requested from hydrology.	Section Supv.	✓
5. Region advised of request.	Section Supv.	Verbal
6. Acknowledgment letter sent.	Section Supv.	Verbal
7. Copy of request routed to: Reg. Off. Bur. Chief; Oper. Bur. Chief; Admin.; Director.	Records Chief	✓
8. Copy of request routed to Administrator, Resources Analysis Division for placement on Board Agenda.	Records Chief	✓ 7/3/80
9. Water Rights researched & abstracted.	Records Chief	✓
10. Visual aid request prepared.	Section Supv.	✓
11. Visual aid reviewed.	Section Supv.	✓
12. Request and related data presented to Board.	Administrator, Res. Admin. Div.	✓
13. Filed or Rejected by Board.	Sec. Supv. et.al.	✓
14. Board action indexed.	Records Chief	✓
15. Original application sent to region.	Records Chief	12-20-79
16. Copy of application sent to F&G, H&W, Parks & Recreation (mandatory)	Region	✓
17. Notice sent to each water right holder or applicant on MSF reach.	Sec. Supv.	Not Req'd
18. Application advertised w/o hearing date.	Region	Not Req'd
19. Personal contact made with riparian land owners.	Requestor	Not Req'd
20. Need for informal public meeting determined. If yes, proceed with step 21. If no, skip to step 24.	Both Administrators & IWRB	Yes
21. Informal public meeting advertised in legal notices.	Region	EMC 11/1/81
22. Notification of informal public meeting sent to:		
a. IWRB members	Section Supv.	DRT 11/2/81
b. Local Legislators	Section Supv.	DRT 11/3/81
c. Watermaster	Section Supv.	DRT 11/5/81
d. Department Personnel	Section Supv.	DRT 10/28/81

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e. Local TV & Radio Stations	Section Supv.	Kay Weaver to Send 11/6/81
f. Water Right Holders	Requestor	DRT 11-9-81
g. Riparian Owners	Requestor	DRT 11-12-81
23. Information provided to IWRB for decision to proceed, modify, or abondon.	Section Supv.	Prepared DRT 11/5/81
24. Notice of formal hearing advertised in legal notices.	Region	Eastern 8/82
25. Notification of formal hearing sent to:		
a. IWRB members	Section Supv.	DRT
b. Local Legislators	Section Supv.	DRT
c. Watermaster	Section Supv.	DRT
d. Department Personnel	Section Supv.	DRT
e. Local TV & Radio Stations	Section Supv.	Kay W.
f. Water right holders	Section Supv.	DRT
g. Attendees of informal public meetings.	Section Supv.	DRT
h. Riparian Owners	Requestor	DRT
26. Hearing held (mandatory).	Hearing Officer & Regional Rep.	AKD
27. Standard approval procedure for memorandum decision.	Hearing Officer	
28. If application is approved, Legislative approval procedure attached.	Records Chief	

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State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

January 5, 1984

Donald R. Kramer, Chairman
Idaho Water Resource Board
Statehouse Mail
Boise, ID 83720

Dear Mr. Kramer:

Re: Application for Permit No. 73-7045

Enclosed is a copy of the approved Application for Permit No. 73-7045 along with a copy of the Memorandum Decision and Order. Please note the conditions of approval as set forth on the fourth page.

Any person who does not agree with the decision of the Department may request a rehearing before the Director within twenty (20) days, or may appeal directly to the district court within thirty (30) days of the date the decision is mailed.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosures

cc: Idaho Water Resource Board
Dave Hanson and Steve Goddard, Idaho Department of Fish and Game
L. L. Anderson

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

January 5, 1984

Re: Application for Permit No. 73-7045 - Idaho Water Resource Board
Pahsimeroi Minimum Instream Flow Application

Dear Interested Party:

Enclosed for your information is a copy of the Director's decision in connection with the above-referenced application for permit.

The copy is forwarded since the file in the matter indicates you are interested in the final decision.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosure

MICROFILMED

MEMORANDUM

TO: A. Kenneth Dunn
Norm Young
FROM: Phil Rassier
RE: Application No. 73-7045 Pahsimeroi Min Flow
DATE: July 29, 1983

I have reviewed the fraft Memorandum Decision and Order with particular attention to the conditions.

Condition No. 2 would subordinate the approved minimum flow permit to subsequent junior priority diversion rights for irrigation and also to unrecorded "excess water rights" for irrigation.

Condition No. 2, if imposed, would appear to contradict proposed Conclusions of Law 3, 4 and 5. The appropriateness of the condition may also be questioned in light of I.C. 42-1505 which provides that:

> Water shall not be deemed to be available to fill any water right of later priority date if diversion of such water would result in a decrease in the flow of the stream or level of the lake below the minimum stream flow or minimum lake level specified in said approved application for appropriation of minimum stream flow at the locations described in said approved application.

Condition No. 6 provides for the continuing jurisdiction of the Director to amend "any and all parameters" of the permit. I.C. 42-1505 states that the approved application shall be considered a water right. The broad wording of the condition is apparently intended to allow for a revocation of the permit. However, once approved the permit becomes a property right. I believe it is very questionable whether the condition could be enforced if challenged in court.

It is also noted that once proof of beneficial use has been submitted and a license issued Condition No. 6 which is limited by its terms to a retention of jurisdiction over the permit would no longer apply.

Phil Rassier

INTER-DEPARTMENT MEMO — 1

DATE 9/30/82

FROM D. TUTHILL

TO 73-7045

SUBJECT

See file for first hearing for exhibits 1 → 9., IDF #6

160
18
1280
160
288

Dkt

SIGNATURE

Glen Gray

642-3388

Butch Webb

August 30, 1982

RE: NOTICE OF HEARING FOR MINIMUM STREAMFLOW APPLICATION

Recorder Herald
P.O. Box 310
Salmon, Idaho 83467

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. If you can not publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

Enclosure: Legal Notice

DEPARTMENT COPY

NOTICE OF AMENDED APPLICATION FOR PERMIT FOR
MINIMUM STREAMFLOW

Notice is hereby given that application for permit No. 73-7045 in the name of Idaho Water Resource Board was filed for the appropriation of 74 to 127 cubic feet per second of water within the NW¼NW¼, Sec. 25, T. 16N, R. 20E extending approximately 7 miles upstream to the NE¼NE¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County.

The applicant now proposes to amend application No. 73-7045 proposing the appropriation of 74 c.f.s. of water from the confluence of the Pahsimeroi and the Salmon Rivers upstream to Big Springs, and 45 c.f.s. from Big Springs upstream to the outlet of the fish rearing and release ponds within the NW¼NW¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County; to be used from January 1 to December 31 to maintain trout and salmon spawning, migration, and rearing habitat in the Pahsimeroi River tributary to Salmon River.

The Department of Water Resources will hold a public hearing on the application in the Legion Hall, Main Street, Challis, Idaho, at 9:00 a.m. on September 24, 1982, for the purpose of hearing evidence in regard to the application. The hearing will be held pursuant to the provisions of Section 42-1503, Idaho Code.

Any party who wishes to formally appear at this proceeding for the purpose of presenting evidence or cross-examining witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Published in the Recorder Herald, September 9 and 16, 1982

MICROFILMED

August 12, 1982

RE: NOTICE OF HEARING FOR MINIMUM STREAMFLOW APPLICATION

Custer Publishing Company
P.O. Box 405
Challis, ID 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. If you can not publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

Enclosure: Legal Notice

NOTICE OF AMENDED APPLICATION FOR PERMIT FOR
MINIMUM STREAMFLOW

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The applicant now proposes to amend application No. 73-7045 proposing the appropriation of 74 c.f.s. of water from the confluence of the Pahsimeroi and the Salmon Rivers upstream to Big Springs, and 45 c.f.s. from Big Springs upstream to the outlet of the fish rearing and release ponds within the NW¼NW¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County; to be used from January 1 to December 31 to maintain trout and salmon spawning, migration, and rearing habitat in the Pahsimeroi River tributary to Salmon River.

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Any party who wishes to formally appear at this proceeding for the purpose of presenting evidence or cross-examinating witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Published in the Challis Messenger, August 19 and 26, 1982.

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

June 3, 1982

Idaho Water Resource Board
Statehouse
Boise, ID 83720

RE: Minimum Stream Flow Application No. 73-7045
Pahsimeroi River

Dear Board Members:

Enclosed please find the statement from James R. Bennetts, Attorney at Law, in regards to the above application.

Sincerely,

L. Glen Saxton

L. Glen Saxton, Chief
Operations Bureau

LGS:dc

cc: Ken Dunn & Dept. of Fish & Game

MICROFILMED

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226

(208) 879-4488

RECEIVED
MAY 13 1982
Department of Water Resources

May 7, 1982

David R. Tuthill, Jr. P.E.
Supervisor, Water Allocation Section
Department of Water Resources
State Office
Statehouse
Boise, Idaho 83720

Re: Minimum Stream Flow Application No. 73-7045
Pahsimeroi River

Dear David:

Enclosed please find my statement in regard to the above matter.

Very truly yours,

James R. Bennetts

JRB:dl
Enclosure

RECEIVED
IDAHO DEPT. OF WATER RESOURCES

RECEIVED
MAY 13 1982
Department of Water Resources

TO: Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

STATEMENT

RE: Application No. 73-7045 of the
Idaho Water Resource Board for
a minimum stream flow on the
Pahsimeroi River

The following is our response to the policy statement of the Water Resource Board on the Pahsimeroi River.

1) The Board members present at the July 9th, 1980, hearing agreed that the Fish and Game Department was not prepared and did not have water flow figures sufficient to support their application. Further, it seemed apparent that further action on the permit would put the future growth of the steelhead and chinook facility in grave jeopardy. That is why the hearing was delayed, not because of any confusion over the effect of the action in regard to prior rights as the policy statement infers. We fully appreciate how a decision will affect prior uses and rights and have from the first.

2) At the hearing held November 18th, 1981, it was again conceded that the updated flow data and figures were insufficient to support any findings. They covered one year only and related to an abnormal water year. Without going into detail, the Chairman of the Committee responded to a question posed by Representative Ray Infanger to the effect that the Fish and Game data could not be used to determine the outcome of the application as it was not sufficient to support any finding. If new data is available on year around flows since November of 1981, please enlighten us. If not, what do you hope to accomplish by yet another gathering? In other words, is the Board really ready?

3) We were assured at the July 9th, 1980, meeting that the flow volumes requested by the Fish and Game were the absolute minimums needed and that anything less was unthinkable. Now that our original concerns about actual flows have been confirmed and it appears that the initial request cannot be supported, why should we now accept

these new volumes as the absolute minimum flow? What are the actual minimums? For instance, what magic is it that dictates the absolute need for 75 CFS downstream from Big Springs while 45 CFS is now admitted to be an adequate minimum flow upstream (in place of 127 CFS, etc.)?

4) Many of us who are interested in Fish and Game matters in this part of Idaho went to a great deal of effort this spring to meet with Jerry Conley and others in the Department of Fish and Game in order to attempt to soften some of the ill feeling created by the handling of this issue. If the board is not ready to proceed in a proper fashion, and it would certainly appear that they are not, only more damage will result. Many property owners have already expressed their feelings by locking out anglers and bird hunters, and it will only get worse if this type of mischief continues.

5) We have saved the Fish and Game Department and the Board from considerable embarrassment on this issue to date. We are also not yet convinced that Idaho Power or the Fish and Game Department will not have to once again apply for more water to meet some future need. We do not, however, have either the resources or the patience to endure continual harrassment even to save the Fish and Game Department from themselves. Therefore, if you believe that something can actually be accomplished, and further that the experts are now ready with reasonable information to answer all of our concerns and questions, we would fully participate in the requested hearing. Otherwise, we will likely save our time and only offer the minimal appearance and testimony necessary to preserve our right of appeal on all points.

DATED: April 21, 1982.

Respectfully submitted,

James R. Bennetts, Attorney at Law
Pahsimeroi Water Users

(PLEASE DISTRIBUTE)

Pahsimeroi R. MSF file 73-14.1

May 19, 1982

The Honorable Vearl C. Crystal
Idaho Senator
Route 6, Box 252
Idaho Falls, ID 83401

Dear Senator Crystal:

RE: Minimum Stream Flow Hearings on the Pahsimeroi River and on Henry's Fork River

Recently the Idaho Water Resource Board modified the applications for permit that describe minimum stream flows on the Pahsimeroi River and on the Henry's Fork River. The department scheduled hearings for the applications on June 15 and 16, respectively.

Due to the severe fiscal restraints recently imposed on state government, the hearings have been delayed until fiscal year 1983. This office will notify you when the hearings are rescheduled.

Sincerely,

DAVID R. THTHILL
Water Allocation Section Supervisor

DRT:alw

This letter was also sent to: Ray Infanger, Wayne Tibbitts, Mark Ricks, F. Melvin Hammond, Rich Orme and J. Marsden Williams

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

May 13, 1982

Mr. James R. Bennetts
Attorney at Law
P. O. Box 36
Challis, Idaho 83226

RE: Hearing on Minimum Stream Flow, Pahsimeroi River

Dear Mr. Bennetts:

I regret to inform you that the above referenced hearing that was scheduled for June 15 has been cancelled due to the recently announced severe budgetary restrictions. It is the Department's intent to reschedule the hearing for early in Fiscal Year 1983.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

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April 30, 1982

James R. Bennetts
Attorney at Law
P. O. Box 36
Challis, ID 83226

Dear Mr. Bennetts:

Enclosed as per your request are copies of the eight tapes of the minimum instream flow hearing on Pahsimeroi River on the Idaho Water Resource Board's water right application No. 73-7045.

The amount charged to you for the tapes and postage is $32.00. Please make a check payable to the Dept. of Water Resources and mail to the above mailing address.

If we can be of any further assistance, please feel free to contact us.

Sincerely,

Anita L. Warntjes
Adm. Secretary

alw
Enc.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

150 Shoup
Idaho Falls, Idaho 83401
(208) 525-7161

May 6, 1982

RE: NOTICE OF PUBLIC HEARING FOR MINIMUM STREAMFLOW
No. 73-7045 IDAHO WATER RESOURCE BOARD

Custer Publishing Company
P.O. Box 405
Challis, Idaho 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. If you can not publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Colleen Wray

COLLEEN WRAY
Adm. Secretary

Enclosure: Legal Notice

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

150 Shoup
Idaho Falls, Idaho 83401
(208) 525-7161

May 6, 1982

RE: NOTICE OF PUBLIC HEARING FOR MINIMUM STREAMFLOW
No. 73-7045 IDAHO WATER RESOURCE BOARD

Custer Publishing Company
P.O. Box 405
Challis, Idaho 83226

Gentlemen:

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An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

Enclosure: Legal Notice

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Cancelled all legal notices + meeting
CW
5-10-82

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226

(208) 879-4488

RECEIVED
APR 29 1982
Department of Water Resources

April 26, 1982

David R. Tuthill, Jr., P.E.
Supervisor, Water Allocation Section
Department of Water Resources
State of Idaho
State Office
Statehouse
Boise, Idaho 83720

Re: Minimum Stream Flow Application No. 73-7045
Pahsimeroi River

Dear David:

I understand the Department is considering another hearing on the Pahsimeroi water matter.

Can you advise me whether a transcript of the hearing previously held in Challis, July 9th, 1980, was ever prepared. I am certain that I will need a copy of that transcript.

Also, please let me know what charges, if any, there might be in that respect. Thank you.

Best regards,

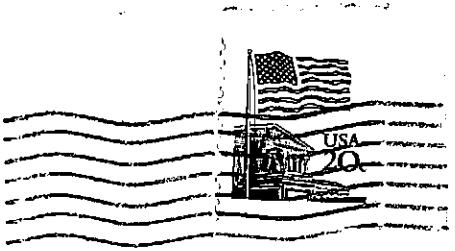
James R. Bennetts

JRB:dl

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Per telecon dated Apr 30, he wishes a copy of tapes. Sent tapes to Kay Weaver for reproduction on Apr 30. DRT 4/30/82 (Norm sent tapes)





David R. Tuthill, Jr., P.E.
Supervisor, Water Allocation Section
Department of Water Resources
State of Idaho
State Office
Statehouse
Boise, Idaho 83720

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POLICY STATEMENT OF IDAHO WATER RESOURCE BOARD ON PAHSIMEROI RIVER

At the request of the Idaho Fish and Game Department, the Idaho Water Resource Board on December 19, 1979, filed an application for a minimum streamflow on the Pahsimeroi River in Custer County. The application was for flows varying each month from 74 c.f.s. in February upward to 127 c.f.s. in September and October for a reach of the river from the confluence with the Salmon River upstream seven miles to the fish rearing and release ponds located near the Dowton Lane Bridge.

On July 9, 1980, the Department of Water Resources held a public hearing upon the application in Challis. It was apparent to the members of the Board attending the hearing that there was considerable confusion among persons holding prior water rights and others concerning the meaning and consequence of establishing minimum flows. There was also uncertainty about the quantity of water available in the river and the necessity for variable flows. The Board asked the Director of the Department of Water Resources to withhold further action on the application. The Fish and Game Department was asked to measure flows during 1980.

In November of 1980 the Board adopted guidelines on future minimum flow applications which allowed for an informal public meeting in the nature of a conference prior to proceeding with a formal public hearing. On November 18, 1981, such a meeting was held in Challis and was attended by approximately 75 farmers, an attorney, several legislators and by representatives of the Idaho Fish and Game Department and Idaho Power Company. A full, frank and candid discussion followed. Members of the Board thereafter requested and obtained further information from Idaho Power Company and the Idaho Fish and Game Department. From all of the comments and all of the data received the following facts can be derived:

1. Pahsimeroi River in the area covered by the application qualifies for protection under the minimum streamflow law. The Pahsimeroi fish hatchery operated by the Idaho Department of

MICROFILMED

ATTACHMENT NO. 3 TO MINUTES OF 2-82 MEETING O
1980 19

Fish and Game, constructed, owned and fully funded by the Idaho Power Company as part of the mitigation mandated by the Federal Power Commission and the Federal Energy Regulatory Commission, annually provides for the trapping of sufficient upstream migrant adult steelhead and the spawning of sufficient eggs to permit raising 200,000 pounds of steelhead trout smolts at Idaho Power Company's Niagara Springs Hatchery for eventual release into the Pahsimeroi River.

Additionally, while the Snake River run of steelhead trout is being reestablished, and during subsequent years when the Snake River run of steelhead trout back to Hells Canyon is too low to supply sufficient eggs, the Pahsimeroi facility will also be used to supply sufficient adults and eggs for a release of 200,000 pounds of steelhead trout smolts in the Snake River, below Hells Canyon Dam. The Pahsimeroi also provides for the trapping and spawning of adult spring chinook salmon and the rearing and release of 1,000,000 resultant smolts into the Pahsimeroi River. The hatchery was expanded in 1981 to provide for this spring chinook culture capability. The Pahsimeroi River Hatchery is one of the four Idaho Power Company hatcheries that provide by far the largest percentage of hatchery salmon and steelhead caught in Idaho.

Maintenance of minimum flows in the river is essential to the operation of the hatchery and to development and maintenance of a native salmon and steelhead fishery.

2. The Pahsimeroi River was historically prime habitat and spawning grounds for native steelhead and salmon. In addition the river historically and presently is a high quality trout fishery.

3. The historic manner of operation by those holding upstream, midstream and downstream water rights has been compatible with the high quality native and hatchery fishery. The concerns expressed at the hearing on July 9, 1980, and the public meeting on November 18, 1981, were primarily addressed to the need to protect existing water rights and irrigation practices. Serious questions were raised about whether the quantities sought in the application would be present in drier years.

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ATTACHMENT NO. 3 TO 2-82 MEETING
IDAHO WATER ... April 7+8, 1982

4. Idaho Power Company has made an application for an additional 10 c.f.s. of flow for operation of its hatchery. This application is for water to be diverted above the discharge point of the fish rearing and release ponds. The minimum flow application of the Board is not in conflict with any license or pending application of Idaho Power Company.

5. Idaho Power Company supports the Board and this application for minimum flows on the Pahsimeroi River to the extent that these flows will assist and protect its salmon and steelhead hatchery.

6. Certain difficulties exist with regulating and supervising variable flows on this river at the various measuring points. The Board has been advised by Fish and Game Department representatives that a fixed minimum flow would be satisfactory for most purposes. The Fish and Game Department has not recommended a flow of 75 c.f.s. from the confluence with the Salmon River upstream to Big Springs and 45 c.f.s. from Big Springs upstream to the discharge point of the fish rearing and release ponds. These flows would be present throughout the reach of the river at all times of all years according to the measurements and historical information provided to the Board.

Based upon the foregoing facts, the Board resolves as follows:

1. The Director is requested to amend the application for minimum flow as originally filed by the Board on December 19, 1979, to a fixed minimum year around flow of 75 c.f.s. from the confluence with the Salmon River upstream to Big Springs and 45 c.f.s. from Big Springs upstream to the discharge point of the fish rearing and release ponds. The Director is requested to set another full public hearing as provided under the minimum flow law for Challis with full public notice to all interested parties to take testimony, receive letters or statements in support or opposition and to determine whether a minimum flow at the reduced but constant level should be granted.

ATTACHMENT NO. 3 TO MINUTES OF 2-82 MEETING
IDAHO WATER RESOURCE BOARD, April 28, 1982

Policy statement revised to reflect corrections in data as noted in April 15, 1982, letter to Mr. Reed from Mr. Wimer, Idaho Power Company.

73-7045

POLICY STATEMENT OF IDAHO WATER RESOURCE BOARD ON PAHSIMEROI RIVER

At the request of the Idaho Fish and Game Department, the Idaho Water Resource Board on December 19, 1979 filed an application for a minimum stream flow on the Pahsimeroi River in Custer County. The application was for flows varying each month from 74 c.f.s. in February upward to 127 c.f.s. in September and October for a reach of the river from the confluence with the Salmon River upstream seven miles to the fish rearing and release ponds located near the Dowton Lane Bridge.

On July 9, 1980 the Department of Water Resources held a public hearing upon the application in Challis. It was apparent to the members of the Board attending the hearing that there was considerable confusion among persons holding prior water rights and others concerning the meaning and consequence of establishing minimum flows. There was also uncertainty about the quantity of water available in the river and the necessity for variable flows. The Board asked the Director of the Department of Water Resources to withhold further action on the application. The Fish and Game Department was asked to measure flows during 1980.

In November of 1980 the Board adopted guidelines on future minimum flow applications which allowed for an informal public meeting in the nature of a conference prior to proceeding with a formal public hearing. On November 18, 1981 such a meeting was held in Challis and was attended by approximately 75 farmers, an attorney, several legislators and by representatives of the Idaho Fish and Game Department and Idaho Power Company. A full, frank and candid discussion followed. Members of the Board thereafter requested and obtained further information from Idaho Power Company and the Idaho Fish and Game Department. From all of the comments and all of the data received the following facts can be derived:

1. Pahsimeroi River in the area covered by the application qualifies for protection under the minimum stream flow law. The Pahsimeroi Fish Hatchery, constructed and operated by the Idaho Power Company as part of the mitigation mandated by the Federal Power Commission and the Federal Energy Regulation Commission, annually provides

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400,000 pounds of steelhead smolt, 4,000,000 pounds of spring chinook and 1,000,000 pounds of fall chinook. The Pahsimeroi hatchery produces by far the largest percentage of hatchery salmon and steelhead caught in Idaho. The hatchery is to be expanded. Maintenance of minimum flows in the river is essential to the operation of the hatchery and to the development and maintenance of a native salmon and steelhead fishery.

2. The Pahsimeroi River was historically prime habitat and spawning grounds for native steelhead and salmon. In addition the river historically and presently is a high quality trout fishery.

3. The historic manner of operation by those holding upstream, midstream and downstream water rights has been compatible with the high quality native and hatchery fishery. The concerns expressed at the hearing on July 9, 1980 and the public meeting on November 18, 1981 were primarily addressed to the need to protect existing water rights and irrigation practices. Serious questions were raised about whether the quantities sought in the application would be present in drier years.

4. Idaho Power Company has made an application for an additional 10 c.f.s. of flow for operation of its hatchery. This application is for water to be diverted above the discharge point of the fish rearing and release ponds. The minimum flow application of the Board is not in conflict with any license or pending application of Idaho Power Company.

5. Idaho Power Company has pledged support to the Board for any application for minimum flows which it may seek for the river since the flows will assist and support sound managment of and enhancement of native and hatchery salmon and steelhead.

6. Certain difficulties exist with regulating and supervising variable flows on this river at the various measuring points. The Board has been advised by Fish and Game Department representatives that a fixed minimum flow would be satisfactory for most purposes. The Fish and Game Department has now recommended a flow of 75 c.f.s. from the confluence with the Salmon River upstream to Big Springs and 45 c.f.s. from Big Springs upstream to the discharge point of the fish

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April 16, 1982

M. Reed Hansen, Chairman
Idaho Water Resource Board
Route 5, Box 213
Idaho Falls, ID 83401

RE: Minimum Stream Flows on the Pahsimeroi River and Henry's Fork, Application Nos. 73-7085 and 21-7282

Dear Reed:

We are in the process of updating the above-referenced applications pursuant to the resolutions passed by the Board last week.

Due to the extensive changes on the Pahsimeroi River application, we have prepared the enclosed amended application for your signature. Note that the rate of flow on the lower reach is 74 cfs rather than 75 cfs to correspond with the previous minimum monthly flow, so the date of priority on the application can be maintained. Please review and sign it, and return it to our Eastern Regional Office. Norm Young is making some telephone contacts in an effort to determine a good hearing date in Challis.

One question remains on the Henry's Fork application. The resolution states that the upper point of the 1,000 cfs reach is "Lookout Butte". Mr. Bob Meinen of the Idaho Department of Parks and Recreation has indicated that he would like to define this point as the township line between T. 10N and T. 11N, R. 43E, shown as line 1 on the enclosed map. Another logical location is directly east of Lookout Butte at the Hatchery Ford site, shown on line 2. The location of this upper point could conceivably affect the construction of a dam at the Hatchery Ford site, so we want to have your input before describing this point on the application.

The other minor changes that were suggested for the Henry's Fork filing are being applied to the original application by personnel in the Eastern Regional Office. Would you please stop by the office next week to initial and date the changes, and to indicate the location of the upper end of the reach? Norm is also working on setting a date for the hearing on this one.

Kay Weaver is preparing news releases for the Pahsimeroi, Henry's Fork and Birch Creek. They should be sent to the media next week.

Thank you for your assistance with this processing. I am looking forward to attending the hearings with you this summer.

Sincerely,

DAVID R. TUTHILL, Jr.
Supervisor
Water Allocations Section

DRT:alw
Encls.

BOARD ACTIONS
2-82 IDAHO WATER RESOURCE BOARD MEETING
APRIL 7 & 8, 1982

1. Approval of 1-82 Idaho Water Resource Board meeting held on Jaunary 19, 1982.

2. Requested staff to present to the Board a plan estimating the costs for providing a technical analysis and the sources of funding available to do comprehensive hydrologic, economic and environmental studies of possible sources of Snake River fish flows to assist in implementing the Anadromous Fishery Policy of the Idaho State Water Plan and as a suggested principle to be included in the overall fishery program of the Northwest Power Council's Fish and Wildlife Program.

3. Requested staff and the Attorney General's Office to advise the Board at its next meeting if it would be appropriate for the Board to adopt, substitute or incorporate the Energy Plan into the Water Plan as a combined Water and Energy Plan.

4. Adopted a resolution to terminate and withdraw the application for a minimum stream flow on Birch Creek without prejudice from the department.

5. Adopted a resolution to amend the application for minimum stream flow on the Pahsimeroi River to a fixed minimum year around flow of 75 c.f.s. from the confluence with the Salmon River upstream to Big Springs and 45 c.f.s. from Big Springs upstream to the discharge point of the fish rearing and release ponds.

6. Adopted a resolution to amend the application for minimum stream flow on Henry's Fork River to: (a) 300 cfs minimum flow for the entire year for the entire reach of Henry's Fork, (b) 1,000 cfs minimum flow from April 1 to September 30 in the reach of the river from Lookout Butte downstream to a point one mile below Lower Mesa Falls, and (c) right to be subordinate to existing water rights filed with department.

7. Withdrew the Carey Act application on Indian Hills project.

8. Withdrew the Grindstone Butte Dam and Reservoir site from the list contained in Policy 21 of the State Water Plan and to inform the U.S. Bureau of Reclamation of the Board's intent not to consider the site for future development.

9. Adopted the resolution authorizing the director of the department to affect a review of the rules, regulations and minimum standards for: Well construction standards, water well driller's license, drilling for geothermal resources, waste disposal and injection wells, safety of dams, mine tailing impoundment structures, stream channel alterations and practice and procedures.

MICROFILMED

Pah., Birch, Henrys Fork
MSF Files

RECEIVED
NOV 30 1981
Department of Water Resources

November 27, 1981

Instream Flows for 3 streams

Reed Hansen, Chairman
Idaho Water Resource Board
Statehouse
Boise, Idaho 83720

Dear Reed;

I support the proposals for instream flows in the Henry's Fork, Birch Creek, and Pahsimeroi River, requested by Parks Department, BLM, and Fish & Game Department, respectively.

It is unfortunate that so much selfish opposition exists. Against it must be balanced the public interest in preservation of aquatic habitat and other natural values.

Given the Legislature's requirement that you consider local interests, and the fact that the hearings were held only in the local areas, it is not too surprising that you saw mostly opposition. Not all of us who support instream flows are wildly enthused about driving to Challis or St. Anthony to support them.

Sincerely,

Jerry Jayne

Jerry Jayne
1568 Lola St.
Idaho Falls, Id.
83402

73-7045
32-7103
21-7282

Route To		Date	Initial
	Director		
	Deputy Dir.		
	Reso. Adm.		
	Reso. Analysis		
	Oper. Bureau		
	Proj. Stud. Bu.		
	Reg. Off. Bu.		
	Tech. Serv. Bu.		
	File:		

MICROFILMED

Henry's Fork, Pahsimeroi

RECEIVED
JAN 18 1982
Department of Water Resources

POOR QUALITY ORIGINAL

January 13, 1982

73-7045

Mr. Reed Hansen, Chairman
Idaho Water Resource Board
Statehouse
Boise, ID 83720

Dear Mr. Hansen:

I am writing in support of the following protected flows:

Henry's Fork of the Snake River (from the mouth of Buffalo River [illegible] below Lower Mesa Falls). I understand that the Idaho Dept. of Parks & Recreation has asked an instream flow of 1,000 cubic feet per second, and 500 cfs the rest of the year; this instream flow would protect the flow over Upper Mesa Falls, protect the stream fishery, and protect habitat for 400 wintering trumpeter swans.

Pahsimeroi River; again, the Idaho Fish/Game is requesting a variable monthly instream flow on the lower seven miles of the Pahsimeroi up to the Idaho Power Co. fish hatchery, in order to protect salmon and steelhead spawning, rearing and migration (the flow in the Pahsimeroi is critical to the future of salmon and steelhead runs in the main Salmon River). The release of young steelhead into the Pahsimeroi is to be doubled, and a large release program for salmon is planned.

Birch Creek; the BIU has requested protection of a flow of 30 cfs on Birch Creek in the Upper Snake area, a "put and take" stream with heavy fishing use.

I obtained (and paraphrased) the above information from THE IDAHO CITIZEN, Vol. 5, No. 2, December, 1981, and felt it necessary to advise you of my support, in view of the opposition to these applications (by Montana Power Co. and negative testimony at a hearing in Challis by Attorney Jim [illegible]). I sincerely hope that my support proves helpful.

Respectfully,

B. Arline Rutledge

B. Arline Rutledge
Rt. 1, Box 76
Arco, ID 83213

MICROFILMED

MSF Files

RECEIVED
DEC 14 1981
Department of Water Resources

December 8, 1981

73-7045

Mr. Reed Hansen, Chairman
Idaho Water Resource Board
Statehouse
Boise, Idaho 83720

RE: Instream flow applications on the Henry's Fork, Pahsimeroi River, and Birch Creek

Dear Mr. Hansen:

I urge the Idaho Water Resource Board to support the instream flow applications filed by various agencies on the Henry's Fork of the Snake River (1000 cfs from April 1 to September 30, with 300 cfs the rest of the year), Pahsimeroi River (a variable monthly instream flow on the lower seven miles), and Birch Creek (30 cfs). The concept of instream flow is one of public interest and it is critical to the maintenance of our riverine ecologies. This enlightened law does not apply to already appropriated waters; the public interest only can consider unappropriated water and follows the usual priority process. In other words, there is no conflict with existing appropriated water users. Since there is no real conflict with existing use, the true public interest lies in guaranteeing the minimum streamflow needed to maintain our river and stream ecologies. The benefit derived from keeping water in our streambeds is shared by the general public, and represents a much greater beneficial use than private appropriation.

It should be remembered that the premise for private appropriation of the public waters is that the public benefits more from the economic inflow from agriculture or industry than it does from existing unappropriated public uses. The public interest values of water are evaluated on a case-by-case basis in Idaho, and if it is demonstrated that the public benefits more from the water as unappropriated than would be experienced by the public from private appropriation, then the application is denied. In the case of minimum streamflow, the public interest very clearly is defined in the maintenance of that flow for the public benefit. It would be an abdication of public interest responsibility to find otherwise. Another unfortunate fact is that in most cases minimum streamflow has become maximum streamflow - further accentuating the need for instream protection.

Today there is a common misconception that public interest uses of public resource "locks up" resources which private interests consider are somehow theirs before appropriation or should be. As an agency mandated to act in the public interest, this kind of attitude has to be seen through and recognized for what it is - groundless special interest greed. In the case of instream flow in Idaho, the public interest designations have had to pass the same priority tests as any other application; there was no favoritism allowed, despite the fact that the public interest represents a far greater population than any private appropriation. It should also be remembered that these filings are based on data and represent scientifically derived estimates of what is needed to keep a public resource alive. The sites which have been applied for are also at a point where this minimum flow would be the maximum flow - in essence any additional appropriations would probably damage the resource.

I urge the Board to keep the public interest as its guiding light in this issue and to act favorably upon these requests.

Thank you for your consideration.

Sincerely,

Peter Bowler
Star Rt., Bliss, ID 83314

MICROFILMED

File with Pahsimeroi & Henry's Fork MSF

RECEIVED
JAN 14 1982
Department of Water Resources

Reed Hansen Chairman
Idaho Water Resource Board

73-7045

Mr. Hansen:

In respect to recent instream flow applications on the Henry's Fork and the Pahsimeroi Rivers, I have the following comments which I wish to add to the hearing record.

On the Henry's Fork: I urge you to adopt an instream flow of 1000 cfs from April 1 to September 30 and a minimum of 300cfs the remainder of the year on the section from the mouth of the Buffalo to below Lower Mesa Falls. The protection of minimal habitat for Trumpeter Swams and the fishery are primary reasons for these minimum flows.

On the Pahsimeroi River: I support the Fish & Game Department's application for the specified instream flow on the lower 7 miles of the river. Trout and salmon require and deserve these minimum flows.

As the streams and rivers of Idaho belong to its residents, and water rights are actually a privilege granted by representatives of those residents, priority should be given to protecting flows to ensure the continuation of wildlife and scenic quality. Minimal flows in no way represent a 'lock-up' of water resources, as they are in actuality a means of preserving the quality and quantity for all users. Everyone suffers from environmental degredation: even though the effects may not be immediately apparent. Lack of adequate minimal stream flows are one type of environmental degradation.

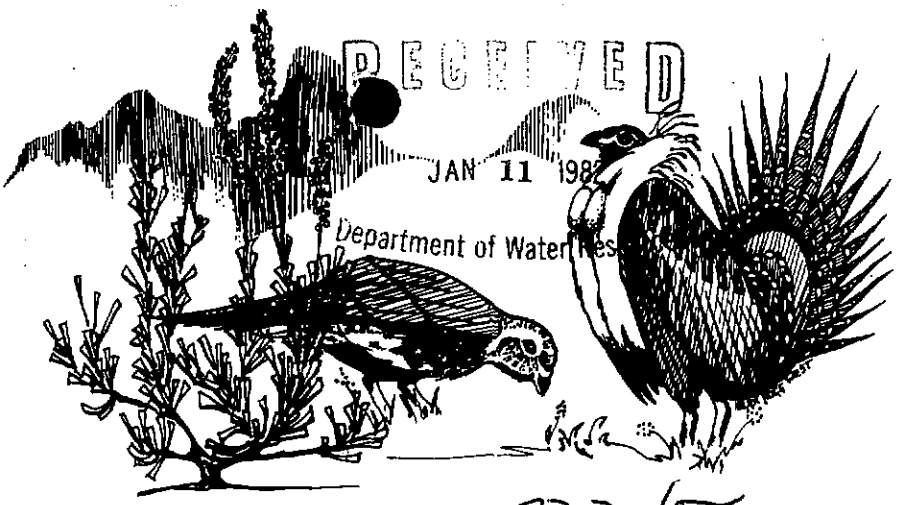
Sincerely,

Robert Jones

Robert Jones
1105 South 3rd
Pocatello, Idaho 83201

MICROFILMED

Snake River Audubon Society
A Chapter of the National Audubon Society



RECEIVED
JAN 11 1982
Department of Water Res

73-7045

January 4, 1982

Reed Hansen, Chairman
Idaho Water Resource Board
Statehouse
Boise, ID 83720

Dear Mr. Hansen,

The Snake River Audubon Society supports the three recently submitted applications for protection of instream flows on the Henry's Fork of the Snake, the Pahsimeroi River, and Birch Creek.

The minimum flows of 1000 csf and 300 csf (Oct. 1 - March 31) in the Henry's Fork are critical for protection of the fisheries and wintering trumpeter swans. These flows will also assure flow over Upper Mesa Falls.

The flow in the Pahsimeroi River is critical to the future of salmon and steelhead runs in the main Salmon River. The Pahsimeroi is an important part of the spawning, rearing, and migration cycle of these fish species.

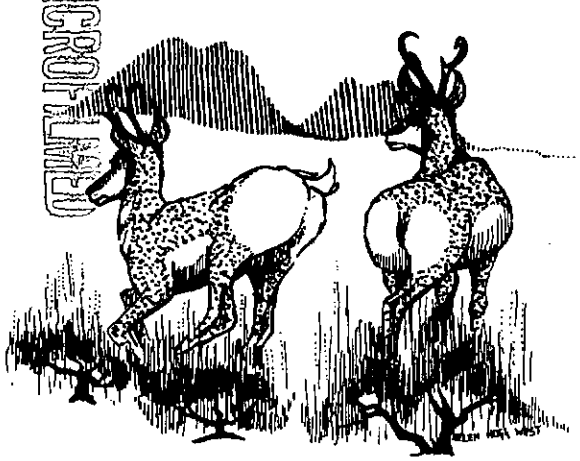
The requested protection of 30 csf on Birch Creek is needed to maintain the heavy fishing usage the stream experiences. The recreational value of this creek surely justifies protection.

We request that you accept the protected flows on the above streams.

Sincerely,

Helen I. McCreery
Conservation Chairman
Snake River Audubon Society
1750 Carmel Dr.
Idaho Falls, ID 83401

MICROFILMED



cc: Bob Turner

November 17, 1981

RE: NOTICE OF PUBLIC MEETING FOR MINIMUM STREAM FLOW

Custer Publishing Company
P.O. Box 405
Challis, Idaho 83226

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on November 5 and 12, 1981.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

$77.35 (Check) 12-14-81

October 29, 1981

Custer Publishing Company
P.O. Box 405
Challis, Idaho 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. If you can not publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

Enclosure: Legal Notice

NOTICE OF PUBLIC MEETING FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board plans to hold an informal meeting to obtain public input concerning a minimum stream flow application No. 73-7045 on the Pahsimeroi River tributary to the Salmon River.

The meeting will be held on Wednesday, November 18, 1981, at 1:00 p.m. in the Courtroom, Custer County Courthouse, Challis, Idaho.

Any person interested in this application is invited to appear and provide comments.

A. KENNETH DUNN

Director

Published in the Custer Publishing Co., Challis, ID on November 5 and 12, 1981.

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 22, 1980

Re: Instream Flow Applications

73-7045	Pahsimeroi
32-7103	Birch Creek
36-7872	Devils Corral Springs
41-7046	E. Fk. Rock Creek

Dear Interested Party:

At the last Idaho Water Resource Board meeting held on August 26, 1980 in Twin Falls, the Board asked the Director to withhold further action on the above-referenced applications for minimum streamflow. The Board has made the request in order to conduct further investigation and research of existing water rights, and of the merits and effects of these instream flow applications.

The Director will delay further action relative to the applications until the Board has had the opportunity to conduct and complete their requested further investigation.

Please feel free to contact this office if you have questions relative to this matter.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

LGS:DRT:rf

☐ Signature ☐ Take Proper Action ☐ Boss's Request
☐ Draft a Reply for Me

This letter was sent to these people on Sept. 24, 1980:
Dept. of Fish & Game
(Attn: Steve Goddard)
O'Dell A. Hansen
Ray E. Unfa
Pearl Crystal
James R. Bennett

RECEIVED
SEP 25
Department of Water Resources
Eastern District Office

September 2, 1980

RE: Application for Permit No. 73-7045 IDAHO WATER RESOURCE BOARD

Custer Publishing Company
P.O. Box 405
Challis, Idaho 83226

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on June 12 and 19, 1980.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

KAY WALKER
Secretary

CW:kw

879-4445

called paper 11/4/80 for affidavit kw

879-4445 called 2/18/81 kw

List of Exhibits Received at July 9, 1980
Hearing on Application No. 73-7045,
Pahsimeroi River Minimum Stream Flow

	Exhibit No.	Topic
IDFG	1	No. of Steelhead juveniles released into the Pahsimeroi River at Idaho Power Company Hatchery facilities.
IDFG	2	No. of juvenile summer chinook salmon released from ponds into the Pahsimeroi River at the upstream Idaho Power Company facility.
IDFG	3	No. of adult steelhead trout collected at the adult trapping facility at the Idaho Power Company Pahsimeroi Hatchery.
IDFG	4	No. of adult summer chinook salmon collected at the adult trapping facility, Idaho Power Company Pahsimeroi Hatchery.
IDFG	5	No. of adult steelhead trout and summer chinook salmon passed upstream from the weir at Idaho Power Company's adult facility to resume spawning.
IDFG	6	No. of juvenile steelhead trout released into the Pahsimeroi River from programs other than Idaho Power Company Mitigation.
IDFG	7	Proportion of steelhead anglers' catch from the Salmon River below North Fork that originated from the Idaho Power Hatchery program on the Pahsimeroi River.
IDFG	8	Stream resource maintenance flow studies, 1976.
IDFG	9	Stream resource maintenance flow determinations on Idaho streams March 1, 1978 to February 28,, 1979.
IDWR	1	Description of MSF reach on county map.
IDWR	2	Applications, permits, licenses and claims.
IDWR	3	Flow duration curve, Pahsimeroi River near May 1930-1959, 1972 (31 Year period).

MICROFILMED

July 25, 1980

Mr. Reed Hansen
Route #5 Box 213
Idaho Falls, Idaho 83401

RE: Minimum Stream Flow Application #73-7045, Pahsimeroi River

Dear Reed:

Enclosed please find copies of information added to the hearing record for the Pahsimeroi River minimum stream flow (MSF) application.

The Idaho Department of Fish & Game has provided flow measurements used in their minimum stream flow analysis. These flow measurements were all made on July 20, 1978, and were taken at four stations within .25 miles of each other, about 1.3 miles upstream from the confluence with the Salmon River. Copies of each are enclosed.

In addition, this office has extracted some information from a Department of Water Resources Water Information Bulletin entitled "A Reconnaissance of Water Resources of the Pahsimeroi River Basin, Idaho" (1973). This bulletin documents stream flow measurements taken across nine (9) sections within the Pahsimeroi River Valley. Three sections are located within the reach defined by the MSF application.

The enclosed map designates the locations of sections 7, 8 and 9, Each section is an imaginary line which bisects the Pahsimeroi Basin, across which all surface water flows are measured. Section 7 crosses the Pahsimeroi River at the Dowton bridge, located just upstream from the point designated as the upper end of the MSF reach. Section 8 crosses the river at Bursteadt Lane, and section 9 crosses just upstream from the mouth. The enclosed data table (page 57) summarizes the streamflow measurements made at these three sections. Note that the flows for each section are divided into two quantities, (1) the flow in the Pahsimeroi River, and (2) the total of all other flows crossing the section.

To place the streamflow data for 1971 and 1978 in perspective, the Department hydrologist, Mr. Bill Ondrechen, has examined stream gaging station information. The Pahsimeroi River gaging station was not monitored in

either 1971 or 1978. However, by comparing available Pahsimeroi River data with data obtained on nearby rivers he determined that the Lemhi River exhibited the same type of flow relationship between years as the Pahsimeroi. For the Lemhi River, 1971 annual discharge was about 120% of average and 1978 annual discharge was about 90% of average. These results could be extrapolated to the Pahsimeroi with reasonable confidence. Thus the 1978 data provided by the Department of Fish and Game can be considered to be about 90% of average, and the data taken on sections 7, 8 and 9 can be considered to be about 120% of average.

Copies of Department of Fish and Game and Department of Water Resources Exhibits are also enclosed as indicated at the hearing, as well as a copy of a letter recently received from Idaho Power Company. To save copy expense we made only one copy of this info for you and Franklin Jones. Please bring it to the Twin Falls hearings for his review.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

DEPARTMENT OF WATER RESOURCES

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO)
)
COUNTY OF ADA)

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on June 25, 1980, true and correct copies of:

1. Idaho Department of Fish and Game Exhibits 1 through 9, as presented at the IDWR hearing on Application for Permit No. 73-7045.
2. Idaho Department of Water Resources Exhibits 1, 2 and 3 as presented at the IDWR hearing on Application for Permit No. 73-7045. (Exhibit 2 showing modification dated July)
3. Page 57, A Reconnaissance of the Water Resources of the Pahsimeroi River Basin, Idaho (1973).
4. Idaho Department of Fish & Game streamflow measurement data (4 pp.).
5. Letter from Idaho Power Company to IDWR concerning Application for Permit No. 73-7045.

were mailed, postage prepaid to:

Mr. J. R. Bennetts
Attorney at Law
Challis, Idaho 83226

Mr. M. Reed Hansen
Route #5 Box 213
Idaho Falls, Idaho 83401

Jackie Gibbons

RECEIVED

IDAHO DEPARTMENT OF FISH AND GAME

STREAM FLOW INVESTIGATIONS

STREAM PAHSIMEROI RIVER TRANSECT NO. 1 DATE 7/20/78

Time _____ Gage Sta. _____ Flow _____

Cross section width _____ Elevation _____ (Ref) _____

Elevation (HW) _____ Distance from US X-section _____

Meter Time _____ Vegetation _____

Estimated time per Transect _____

Man-hours _____

ft DIST	cm ft DEPTH	fps VELOCITY .2	.6	.8	Q cfs SUBS
1					0
3	24 .787		.424		.667
5	36 1.18		1.01		2.38
7	30 .984		2.60		5.12
9	33 1.08		3.35		7.24
11	43 1.41		3.05		8.60
13	42 1.38		3.27		9.03
15	48 1.57		3.19		10.02
17	47 1.54		3.42		10.53
19	49 1.61		3.19		10.27
21	48 1.57		4.14		13.00
23	47 1.54		2.00		6.10
25	53 1.74		2.85		9.92
27	58 1.90		3.19		12.12
29	62 2.03		3.05		12.38
31	63 2.07		1.61		6.67
33	57 1.87		2.91		10.88
35	51 1.67		1.91		6.38

ft DIST	cm ft DEPTH	fps VELOCITY .2	.6	.8	Q cfs SUBS
37	32 1.05		.784		1.65
39	WE				

$\bar{Q} = 138.93$

$\Sigma Q = 143.01$

IDAHO DEPARTMENT OF FISH AND GAME

STREAM FLOW INVESTIGATIONS

STREAM PAHSIMEROI RIVER TRANSECT NO. 2 DATE 7/20/78

Time _____ Gage Sta. _____ Flow _____

Cross section width _____ Elevation _____ (Ref) _____

Elevation (HW) _____ Distance from US X-section _____

Meter Time _____ Vegetation _____

Estimated time per Transect _____

Man-hours _____

DIST (ft)	DEPTH (cm ft)	VELOCITY .2 (fps)	VELOCITY .6 (fps)	VELOCITY .8 (fps)	SUBS (Q cfs)
0 2	0		—		—
2 4	40 1.31		neg		.026
4 6	49 1.61		.842		2.71
6 8	50 1.64		3.79		12.43
8 10	48 1.57		3.56		11.18
10 12	40 1.31		3.42		8.96
12 14	41 1.34		3.29		8.76
14 16	40 1.31		2.91		7.62
16	36 1.18		3.05		7.20
18	24 .787		3.42		5.38
20	21 .689		3.29		4.53
22	29 .951		2.98		5.67
24	38 1.25		3.12		7.80
26	42 1.38		3.19		8.80
28	52 1.71		3.27		11.18
30	65 2.13		3.96		16.87
32	70 2.30		1.95		8.97
34 36	73 2.40		1.33		6.38

DIST (ft)	DEPTH (cm ft)	VELOCITY .2 (fps)	VELOCITY .6 (fps)	VELOCITY .8 (fps)	SUBS (Q cfs)
36 38	54 1.77		.552		1.95
WE 38 40	15 .492		neg		.005

$\Sigma Q_2 = 136.45$

IDAHO DEPARTMENT OF FISH AND GAME

STREAM Palisimeroi River TRANSECT NO. 3 DATE 7.20.78

Time _____ Gage Sta. _____ Flow _____

Cross section width _____ Elevation _____ (Ref) _____

Elevation (HW) _____ Distance from US X-section _____

Meter Time _____ Vegetation _____

Estimated time per Transect _____

Man-hours _____

ft DIST	cm ft DEPTH	VELOCITY fps .2	.6	.8	q cfs SUBS
WE 0	0		—		
2	14 .459		1.15		1.06
4	19 .623		2.85		3.55
6	18 .591		2.67		3.16
8	24 .787		2.49		3.92
10	25 .820		2.67		4.38
12	27 .886		3.12		5.53
14	29 .951		3.12		5.93
16	30 .984		3.56		7.01
18	36 1.18		3.42		8.07
20	38 1.25		3.56		8.90
22	34 1.12		3.12		6.99
24	34 1.12		3.27		7.32
26	30 .984		3.49		6.87
28	34 1.12		3.56		7.97
30	32 1.05		3.49		7.33
32	45 1.48		3.12		9.24
34	50 1.64		2.19		7.18
36	60 1.97		2.55		10.05
38	70 2.30		1.76		8.10
40	65 2.13		1.65		7.03
42	56 1.84		1.08		3.97
44	39 1.28		.505		1.29
46	15 .492		neg		.007
WE 47	0		-		-

$\Sigma Q_3 = 134.85$

REJECTED

IDAHO DEPARTMENT OF FISH AND GAME

STREAM PAHSIMEROI RIVER TRANSECT NO. 4 DATE 7/20/18

Time _____ Gage Sta. _____ Flow _____

Cross section width _____ Elevation _____ (Ref) _____

Elevation (HW) _____ Distance from US X-section _____

Meter Time _____ Vegetation _____

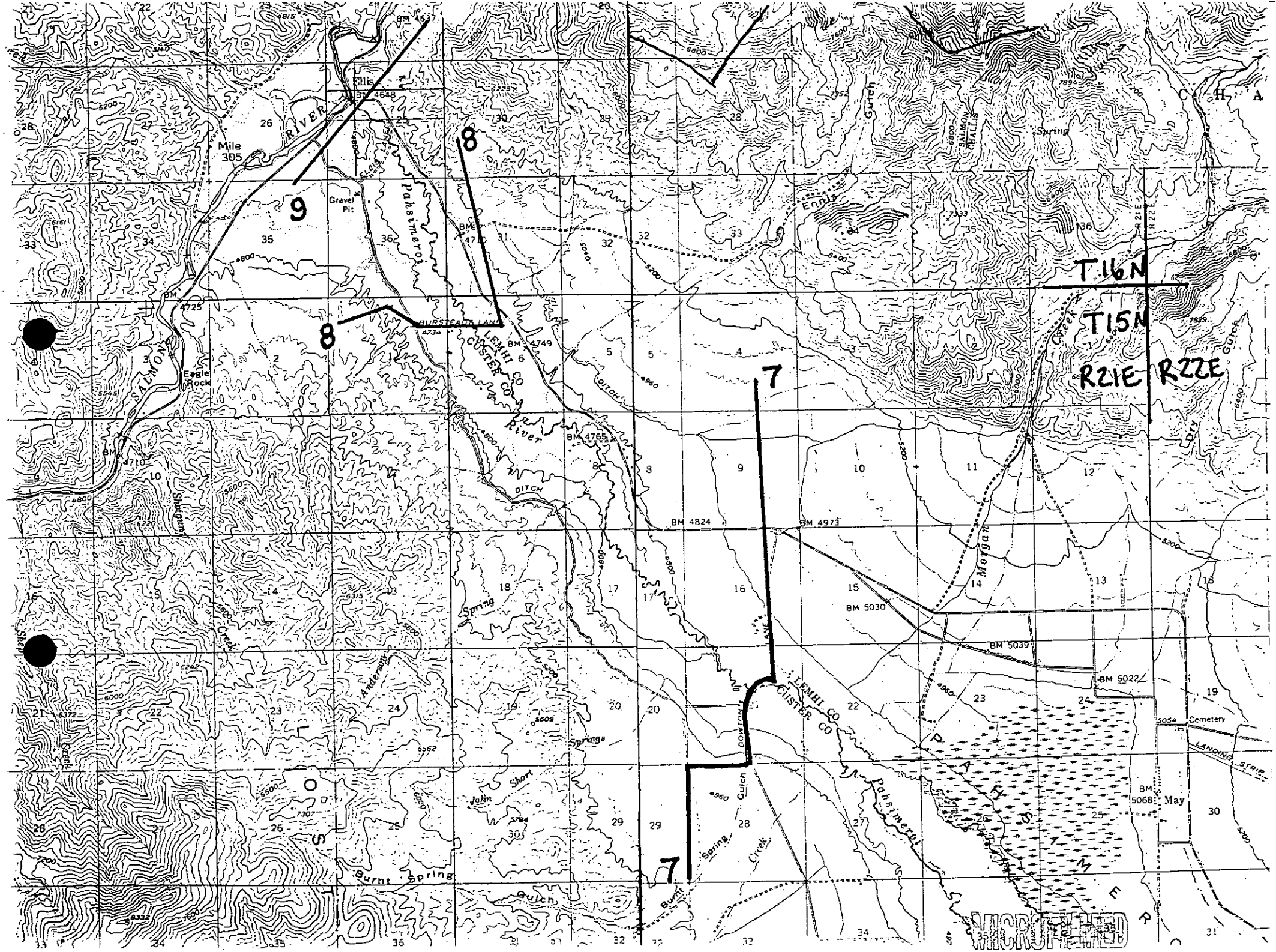
Estimated time per Transect _____

Man-hours _____

DIST (ft)	DEPTH (cm/ft)	VELOCITY (fps) .2	.6	.8	SUBS (Q cfs)
WE 3	0				
5	14 .459		0.1		.009
7	36		.746		1.76
9	49		2.43		7.82
11	60		255		
13	69		2.98		.7
15	80	2.60	2.83	3.05	
17	83	3.79	3.53	3.27	19.70
19	85	3.79	3.53	3.27	19.70
21	85	3.05	3.34	3.63	1.14
23	72		2.91		.14
25	67		1.65		
27	56		1.97		
29	60 1.77		1.81		
31	49 1.41		0.1		.040
~~33~~ WE	0		—		

DIST	DEPTH	VELOCITY .2	.6	.8	SUBS

EQ = 141.40


T16N
T15N
R21E
R22E
SALMON RIVER
Ellis
Mile 305
Gravel Pit
Pahsimeroi
Eagle Rock
Shotgun Creek
Anderson
Spring
John Short
Burnt Spring
Gulch
Burnt Spring Creek
Ennis
Gulch
Morgan
Creek
Dry Gulch
Spring
Creek
LEMHI CO
CUSTER CO
BURSTEAD LANE
DITCH
LANE
BOWTON
LANDING STRIP
Cemetery
May
BM 4648
BM 4725
BM 4710
BM 4749
BM 4765
BM 4824
BM 4973
BM 5030
BM 5039
BM 5022
BM 5068
5054
7
8
9
MICROFILMED

Section 7

Date	Pahsimeroi River	Diversions
5-25-71	42.0	112
6-19-71	56.0	154
7-13-71	67.0	138
8-11-71	61.3	107
9-20-71	71.3	114
10-14-71	177	49.5
11-17-71	272	14.7
12-16-71	211	0

Section 8

Date	Pahsimeroi River	Diversions
5-11-71	145	9.40
5-25-71	98.7	26.6
6-19-71	125	46.4
7-13-71	162	52.0
8-11-71	144	30.2
9-20-71	160	36.2
10-14-71	240	15.0
11-18-71	323	5.44
12-16-71	274	[c].6

Section 9

Date	Pahsimeroi River	Diversions
5-26-71	145	2.50
6-20-71	186	3.80
7-12-71	207	24.1
8-10-71	181	12.8
9-20-71	210	10.6
10-14-71	294	2.62
11-18-71	365	[c]4
12-16-71	321	0

[a] Diversions from tributaries flow across section in upstream direction.

[b] Includes Goldburg Creek.

[c] Discharge estimated.

[d] Includes Sulphur Creek Spring.

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

600 SO. WALNUT ST. — P.O. BOX 25
BOISE, IDAHO 83707

RECEIVED
OCT 23 1981
Department of Water Resources

October 20, 1981

Mr. David R. Tuthill, Jr., P.E.
Supervisor, Water Allocation Section
Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720

Dear Dave:

The following work has been done on Minimum Stream Flows in 1981:

95-7874 - Wolf Lodge Creek
96-7771 - Granite Creek
96-7772 - Sullivan Springs

Region 1 reports that staff gauges were installed and calibrated on these waters this summer. Periodic readings and recalibrations will be recorded.

73-7045 - Pahsimeroi River

We have collected stream flow measurements at 12 sites on the Pahsimeroi monthly since May and at two week intervals during some of the peak irrigation times. A report is being prepared which will include an aerial photo-map indicating the flow volume, inflows and withdrawals at the different sites and times. We hope to have the data completed and summarized in the next two months.

37-7849 - Silver Creek, lower end

The Regional office is supposed to be making contact with the riparian land owners this week and a report will be forwarded to you.

Sincerely,

Herb Pollard
State Fishery Manager
Bureau of Fisheries

MICROFILMED

Copy

State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

July 9, 1981

Idaho Power Company
P. O. Box 70
Boise, Idaho 83707

RE: Application for Permit No. 73-7051 for 10 cfs on the Pahsimeroi River.

Gentlemen:

We have completed preliminary review of the above referenced application for permit. We will not be able to approve the application at this time due to the existance of a minimum stream flow application on the Pahsimeroi River, No. 73-7045. A copy of the application is enclosed for your information.

If the minimum stream flow application were approved as it is currently described, there would probably be no water available for diversion at the inlet to your ponds during most of the year. However, the Idaho Water Resource Board is currently holding their application to await some additional stream flow information being gathered by the agency which requested that the minimum stream flow be protected, the Idaho Department of Fish and Game. Based on this information the Board may decide to reduce the rates of flow on the application or move the upper point of the minimum flow reach downstream to the outlet of your fish propagation facility.

We will hold your application pending the resolution or amendment of the minimum stream flow application. Please contact me if you have further questions about this matter.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

c.c. Idaho Water Resource Board

U.S. interior adopts the Carey Act Rules

443

BOISE — State Bureau of Land Management Director Bob Buffington has announced that the Department of the Interior has adopted regulations covering the granting of federal lands to states under the Carey Act, a BLM news release says.

According to Buffington the regulations outline procedures for carrying out the act that was passed in 1894 to aid public land states in the reclamation and settlement of desert lands.

Carey Act regulations were removed from federal regulations in 1970 because no applications had been received from the states for several years. But recently, the Idaho began filing applications under the Act.

The new regulations clarify a number of points, elimininate unnecessaary requirements and forms. and require classification of all lands before they are segregated under the Carey Act. They represent a complete revision of the regulations that were in effect until 1970.

Lands subject to appropriation under the Carey Act must be reclaimed desert lands capable of producing ordinary agricultural crops by irrigation.

The regulations provide that the state shall provide maps and reclamation plans to the appropriate state director of the BLM.

If the plans are satisfactory, the secretary of the interior or his delegate may enter into a grant contract with the state for reclamation of the lands within a 10-year period.

At his discretion, the state director may extend the period for up to five years or may restore the lands to the public domain if the lands are not reclaimed within the 10-year period.

The state director may also restore the lands to the public domain if actual construction for reclamation has not begun within three years of the contract.

When the state wishes to patent the lands for agricultural uses to settlers, the rules provide it will list the lands to be patented with BLM along with a cetrificate that the lands have been reclaimed and that ample water has been provided.

Notice of patent lists will be published and, if free from protest, patents will be issued.

REXBURG STANDARD
Rexburg, Idaho

JUL 1 1980

Water board schedules Challis hearings on fish habitat request

Hoping to maintain trout and salmon spawning, migration and rearing habitat year-round in the Pashimeroi River tributary of the Salmon River, the Idaho Water Resource Board has proposed the appropriation of 74 to 127 cubic feet per second of water.

For those interested in giving evidence in regard to the application, the Director of the Department of Water Resources will hold a public hearing in the Challis High School gymnasium on July 9th at 9 a.m.

The area in question extends approximately seven miles upstream along the river and anyone wishing to formally appear at this hearing, for the purpose of presenting evidence or cross-examining witnesses, should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, five days prior to the hearing.

Other interested parties will be given an opportunity to informally present their views and comment without the necessity of filing a notice of appearance.

CHALLIS MESSENGER
Challis, Idaho

JUL 3 1980

Test Holes to Explore Snake Aquifer Level

BURLEY — The Water and Power Resources Service, formally the Bureau of Reclamation, as part of its ongoing Upper Snake River Water Management Study, will begin drilling several exploratory holes in the Springfield-Blackfoot area in July, it was announced by Don Tracy, superintendent of the Minidoka Project. Plans are to drill two to three holes over the next few months in the area.

Tracy said the purpose of the drilling is to collect additional geological and hydrological information for the ongoing water management study. The drill holes will not be used as water supply wells. The drilling is a continuation of a data collection program started in 1978.

The holes will range from 500 to 1,000 feet deep, depending on subsurface conditions. The diameter of the holes will be six to eight inches at the ground surface; the diameter will be reduced to smaller sizes at the deeper levels.

After drilling and sample coring of the rock strata is complete, several 4-inch diameter pipes will be installed in each drill hole as it is backfilled with gravel and concrete. The concrete will be placed to form a seal between various water yielding zones. One pipe will extend from the surface to each of the isolated zones. The depth of water in each pipe will be measured periodically to determine the water level in each zone.

These measurements will aid hydrologists in determining the direction of ground water flow, the seasonal fluctuations of the water table and the movement of water from one strata to another. The information will be used to refine existing ground water computer models that have been developed by the Service, the Idaho Department of Water Resources and the University of Idaho. The models simulate the behavior of the regional ground water reservoir — the Snake Plain aquifer. They are used to identify and evaluate any efforts on ground water levels and discharge of springs that might occur as a result of changes in irrigation methods, river and storage operations, ground water development, and precipitation or other natural events that affect the aquifer system.

IDAHO STATE JOURNAL
Pocatello, Idaho

JUN 30 1980

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

July 3, 1980

RE: Application for Permit No. 73-7045

Mr. Roy Ellis
Star Route
Ellis, Idaho 83235

Dear Mr. Ellis:

This letter is to acknowledge your protest dated June 23, 1980, concerning the above referenced application. A public hearing will be held on July 9, 1980, at 9:00 a.m., in the Challis High School Gym, Challis, Idaho, concerning this application.

If you have any questions, please feel free to contact this office.

Very truly yours,

Ernest Carlsen.

ERNEST CARLSEN
Sr. Resource Analyst

EC:cw

MICROFILMED

Roy Ellis
Star Route
Ellis, Idaho
83235

RECEIVED
JUN 30 1980
Department of Water Resources

June 23, 1980

Sirs:

I am writing in protest to Application for Permit No (73-7045) to the Department of Water Resources for the appropriation of 74 to 127 cubic feet per second of water of the Pahsimeroi River, tributary of the Salmon River.

My reason of protest is because of conflict of interest in agricultural irrigation.

Roy Ellis

RECEIVED
JUL 2
Department of Water Resources
Eastern District Office

Roy Ellis
Star Route
Ellis, Ida
83235



Director - Dept. of Water
Resources
Statehouse
Boise, Idaho
83702

MISROUTED

Notice is hereby given that the following application has been submitted for permit to appropriate the public waters of the State of Idaho:

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on December 19, 1979 submitted Application for Permit No. 73-7045 to the Department of Water Resources proposing the appropriation of 74 to 127 cubic feet per second of water within the NW¼NW¼, Sec. 25, T. 16N, R. 20E extending approximately 7 miles upstream to the NE¼NE¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County to maintain trout and salmon spawning , migration, and rearing habitat year around in the Pahsimeroi River tributary of the Salmon River.

The Director of the Department of Water Resources will hold a public hearing on the application in the Challis High School Gym, Main Street, Challis, Idaho, at 9:00 am on July 9, 1980, for the purpose of hearing evidence in regard to the application. The hearing will be held pursuant to the provision of Section 42-1503, Idaho Code.

Any party who wishes to formally appear at this proceeding for the purpose of presenting evidence or cross examing witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

If issued the permit will be subject to all prior water rights.

C. STEPHEN ALLRED

Director

Published in the Custer Publishing Company 6/12 & 6/19/80.

IDENT. NO. 73 7045

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT DATA ENTRY LOG

Initials	Date	Item
kw	1/24/80	Original form entered
		Edit Report Correct
		Date Protested
		Date of Hearing
		Date Approved/Denied (Proof due date, stage and/or status, conditions of approval, water district)
		Record Verified
		Amendment Approved
		Extension Approved
		Partial Proof
		Proof Complete
		Field Exam Received
		Field Exam Accepted and changes entered
		License Signed
		Transfer Approved
		Keypunched by State Office

STATE OF IDAHO

DEPARTMENT OF HEALTH AND WELFARE

DIVISION OF ENVIRONMENT
636 Pershing
Pocatello, Idaho
83201

15 April 1980

Ernest Carlsen, Sr. Resource Analyst
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Applications #11-7152 (Bear Lake County) #73-7045 (Custer County)

Dear Ernest:

We have reviewed the subject applications submitted by the Idaho Water Resource Board, Boise, for permits to appropriate the public waters of the State of Idaho (St. Charles Creek in Bear Lake County, and Pahsimeroi River in Custer County), in order to maintain the present quality of fisheries and fish population in the stream, and provide adequate spawning and rearing conditions.

The intended uses of the appropriation is consistent with the maintenance of water quality and, therefore, we endorse the appropriation.

Yours very truly,

Henry L. Moran, P.E.
Rgnl. Environmental Supervisor

HLM/md

MICROFILMED

RECEIVED
APR 16 1980
Department of Water Resources
Eastern District Office

STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

REGION 6
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

RECEIVED
APR 14 1980
Department of Water Resources
Eastern Division Office

April 10, 1980

Mr. Ernest Carlsen
Sr. Resource Analyst
Department of Water Resources
Eastern Region
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Ernie:

Re: Appl. No. 73-7045
Idaho Water Resource Board

Personnel from our Department have reviewed the application for minimum instream flows in a portion of the Pahsimeroi River. We support the minimum recommended flows as spelled out in the application.

Thank you for the opportunity to review and comment on this application.

Sincerely,

DEPARTMENT OF FISH AND GAME
Robert L. Salter, Acting Director

TR

Tom Reinecker, Regional Supervisor
Region 6

TR:jl

cc: US Fish & Wildlife Service
Bureau of Program Coordination
Bureau of Fisheries
Paul Jeppson

RECEIVED
APR 14 1980

April 8, 1980

RE: Application for Permit No. ~~73-7103 and~~ 73-7045
IDAHO WATER RESOURCE BOARD

Mr. Tom Reinecker
Regional Supervisor
Department of Fish & Game
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Tom:

We are enclosing copies of applications that may be of interest to your agency. Please review the applications and submit any comments you may have to our Department as soon as possible.

If we may be of further assistance in this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:cw:kw

Enclosures

April 8, 1980

RE: Application for Permit No. 11-7152, ~~12-7103~~, and 73-7045
IDAHO WATER RESOURCE BOARD

Mr. Henry L. Moran
Regional Environmental Supervisor
Department of Health & Welfare
636 Pershing
Pocatello, Idaho 83201

Dear Mr. Moran:

We are enclosing copies of applications that may be of interest to your agency. Please review the applications and submit any comments you may have to our Department as soon as possible.

If we may be of further assistance in this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:cw:kw

Enclosures

April 8, 1980

RE: Application for Permit No. 11-7152, ~~73-7153~~, and 73-7045
IDAHO WATER RESOURCE BOARD

Department of Parks & Recreation
Statehouse
Boise, Idaho 83720

Gentlemen:

We are enclosing copies of applications that may be of interest to your agency. Please review the applications and submit any comments you may have to our Department as soon as possible.

If we may be of further assistance in this matter, please feel free to contact this office.

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:cw:kw

Enclosures

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before FEBRUARY 18, 1980.

C. STEPHEN ALLRED

Director

Published 1/31 & 2/07/80.

IDAHO WATER RESOURCE BOARD

STATEHOUSE, BOISE, ID 83720

Source: PAHSIMEROI RIVER tributary to SALMON RIVER

Date Filed: 12/19/1979

Amount: 127.00 CFS

Diversion Point: LOT 01 (NWNW) Sec 25 T 16N R 20E, CUSTER Co.

Use:	MINIMUM INSTREAM FLOW	(85.00 CFS)	from 11/01 to 01/31
	MINIMUM INSTREAM FLOW	(74.00 CFS)	from 02/01 to 02/28
	MINIMUM INSTREAM FLOW	(78.00 CFS)	from 03/01 to 03/31
	MINIMUM INSTREAM FLOW	(109.00 CFS)	from 04/01 to 05/31
	MINIMUM INSTREAM FLOW	(78.00 CFS)	from 06/01 to 07/31
	MINIMUM INSTREAM FLOW	(127.00 CFS)	from 08/01 to 10/31

Place of Use: LOT 01 (NWNW) Sec 25 T 16N R 20E

Diversion Means: IN STREAM FLOW.

23-2045

IDAHO WATER RESOURCE BOARD

STATEHOUSE, BOISE, ID 83720

Source: PAHSIMEROI RIVER tributary to SALMON RIVER

Date Filed: 12/19/1979

Amount: 127.00 CFS

Diversion Point: LOT 01 (NWNW) Sec 25 T 16N R 20E, CUSTER Co.

Use:	MINIMUM INSTREAM FLOW	(85.00 CFS)	from 11/01 to 01/31
	MINIMUM INSTREAM FLOW	(74.00 CFS)	from 02/01 to 02/28
	MINIMUM INSTREAM FLOW	(78.00 CFS)	from 03/01 to 03/31
	MINIMUM INSTREAM FLOW	(109.00 CFS)	from 04/01 to 05/31
	MINIMUM INSTREAM FLOW	(78.00 CFS)	from 06/01 to 07/31
	MINIMUM INSTREAM FLOW	(127.00 CFS)	from 08/01 to 10/31

Place of Use: LOT 01 (NWNW) Sec 25 T 16N R 20E

Diversion Means: IN STREAM FLOW.

MICROFILMED

Form No. 202a
3/79

State of Idaho

Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: Ernest Carlson APPLICATION NUMBER: ~~U~~ 73.7045
73-7045

CHECK:

- ☒ Source.
- ☒ Point of diversion.
- ☒ County.
- ☒ Quantity of water and period of use.
- ☒ Description of diverting works. N.A.
- ☒ Time required for beneficial use of water.
- ☒ Place of use or acres irrigated.
- ☒ Map.
- ☒ Signature.
- ☐ Fee. NONE

Field check by: _____
Date: _____
Comments: _____

- ☐ Yes ☑ No Field check required.
- ☐ Yes ☑ No Critical groundwater area.
- ☐ Yes ☑ No Request dam safety information. Sent by: _____ Date: _____
- ☐ Yes ☐ No* In form to receipt.

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

Set hearing for July 9th in Challis

-87⁹-44⁴⁵

SEND COPIES TO:

☒ Idaho State Health Department.	Copies sent by:	KW	Date: 4/8/80
☒ Idaho Fish and Game Department.		KW	4/8/80
☐ Idaho Department of Lands.			
☐ U.S. Bureau of Land Management.			
☐ U.S. Forest Service.			
☒ Other Parks & Rec.		KW	4/8/80

PROCESSING:

- ☒ Yes ☐ No Platted by: Ernest Map No. T-25.
- ☐ Yes ☒ No Other rights on same place of use. NONE.
- ☒ Yes ☐ No* In form for advertising.
  Final date for protests: _____
- ☐ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☐ Affidavit of publication received. Date: _____
- ☐ Application published correctly. If not, record action taken: _____
- ☐ Fee amount, receipt date & number, recorded on application.
- ☐ Publication dates and paper, recorded on application.
- ☐ Protests, dates, withdrawal, etc., recorded on application.
- ☐ Recommendation & initial, recorded on application.
- ☐ Yes ☐ No Measuring device required.
- ☐ Yes ☐ No Access port required.
- ☐ Yes ☐ No Will water be delivered by watermaster? If yes, what district? _____
  _____ Date of priority recommended.

Special conditions of approval or cover letter. _____

By: _____ Date: _____

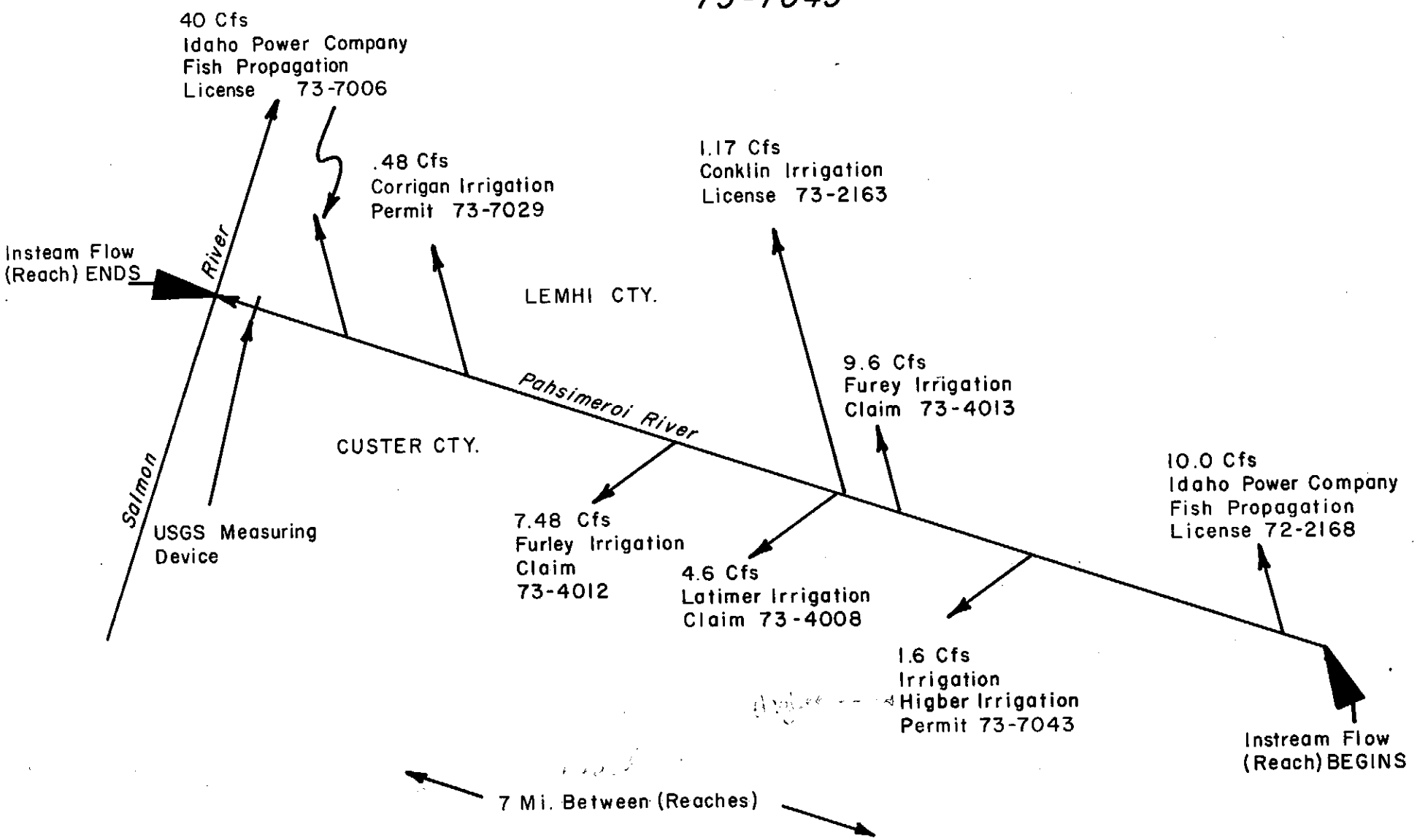
STATE OFFICE REVIEW:

- ☐ See attached sheet for more information.

By: _____ Date: _____

MICROFILMED

PAHSIMEROI RIVER
73-7045



Board Requested Flows Cfs By Month -

J	F	M	A	M	J	J	A	S	O	N	D
85	74	78	109	109	78	78	127	127	127	85	85

July 3, 1980

MEMORANDUM

TO: File No. 73-7045

FROM: Roberta Garrett

SUBJECT: Research

Rights located within the specified reach identified from the point of requested flow, Government Lot 1 (NW¼NW¼), Sec. 25, T. 16 N., R. 20 E., approximately 7 miles to the fish rearing and release ponds located in the NE¼NW¼, Sec. 21, T. 15 N., R. 21 E. are as follows:

73-4012	73-4008
73-4013	73-7029
73-4009	73-7043
73-2163	73-7045
73-2168	73-4014
73-7006	

rg

also - 73-4003

DECLASSIFIED

June 26, 1980

Mr. Reed Hansen
Route #5 Box 213
Idaho Falls, Idaho 83401

Dear Reed:

I was pleased to hear that you will be representing the Board at the next two MSF hearings. Glen Saxton has asked me to represent the Department at the hearings, and Iam looking forward to attending.

In the meantime, you may wish to review some of the documentation regarding the Birch Creek and Pahsimeroi River MSF applications. Enclosed please find copies of the applications, the newspaper notices, and available hydrologic data.

Also enclosed for your review is a copy of additional information provided by the Idaho Department of Fish and Game for the MSF application on St. Charles Creek. This information is currently being sent to all principal parties in the case.

We will be spending the night on Monday, July 7, at the Westbank in Idaho Falls. We plan to arrive at about 9:00 P.M., and drive to Dubois early Tuesday morning. We will prepare a briefing sheet for your use at the hearing, but we invite you to come to the motel on Monday evening to discuss the application.

Sincerely,

DAVID R. TUTHILL JR., P.E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

Notice is hereby given that the following application has been submitted for permit to appropriate the public waters of the State of Idaho:

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on December 19, 1979 submitted Application for Permit No. 73-7045 to the Department of Water Resources proposing the appropriation of 74 to 127 cubic feet per second of water within the NW¼NW¼, Sec. 25, T. 16N, R. 20E extending approximately 7 miles upstream to the NE¼NE¼, Sec. 21, T. 15N, R. 21E, B.M., Custer County to maintain trout and salmon spawning , migration, and rearing habitat year around in the Pahsimeroi River tributary of the Salmon River.

The Director of the Department of Water Resources will hold a public hearing on the application in the Challis High School Gym, Main Street, Challis, Idaho, at 9:00 am on July 9, 1980, for the purpose of hearing evidence in regard to the application. The hearing will be held pursuant to the provision of Section 42-1503, Idaho Code.

Any party who wishes to formally appear at this proceeding for the purpose of presenting evidence or cross examing witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

If issued the permit will be subject to all prior water rights.

C. STEPHEN ALLRED

Director

Published in the Custer Publishing Company 6/12 & 6/19/80.

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

MEMORANDUM

TO: Dave Tuthill, Water Allocation Section DATE: May 23, 1980

FROM: Bill Ondrechen, WTO, Hydrology Section

SUBJECT: Hydrologic Analysis of Minimum Streamflow Applications 36-7872, 41-7046, 73-7045 and 32-7103

Devils Corral Springs (36-7872)

An examination of the annual discharge measurements for the period 1950-78 shows that the requested instream flow of 48 cfs can be maintained, in fact it is very close to the average discharge for the period of 48.6 cfs. These annual measurements, made during March or April, are thought to represent the yearly minimum of the spring flow. Table 1 lists the discharge data.

East Fork Rock Creek nr Rockland (41-7046)

An analysis was made using the summary hydrograph program of the data for gaging station 13077600. Only four years of record exist for the station, however. The stream is fed by spring discharge and has yearly maximum flows in August or September and yearly minimum flows in March or April. Table 2 illustrates part of the results of the analysis. The flow duration portion of the analysis shows that the requested instream flow of 20 cfs is only equalled or exceeded 8 percent of the time, while a flow of 15 cfs occurs about 50 percent of the time. It appears that the 20 cfs requested is not a "minimum flow" in the sense that it has a low probability of exceedance. Also, an examination of miscellaneous measurements made just above the lower end of the reach shows that flows are less than 15 cfs most of the time. These measurements were made between May, 1955, and December, 1960, so they do not overlap with the period of record for the upstream site.

While the 20 cfs might be a desirable flow from other than a hydrologic standpoint, records indicate that it can't be maintained very much of the time.

MICROFILMED

Pahsimeroi River (73-7045)

This stream is fed by groundwater discharge and as a result has low flows during May and high flows in the fall months. A summary hydrograph analysis of data for USGS gaging station 13302000, Pahsimeroi R. nr May, shows that the proposed instream flows can generally be met. Figure 1 illustrates the 90 percent exceedance flow, the average flow, and the proposed instream flows. The proposed instream flows are well below the 90 percent exceedance flows except during May and August. One complicating factor is that the 40 cfs Idaho Power Company fish propagation diversion began in 1969 and so only one year (1972) of data in the summary hydrograph analysis has the diversion included. The effect of the diversion would be to make even less water available during the March-November period. The 40 cfs diversion is, however, very near the lower end of the reach. (This diversion re-injects above the m.d.)

(SENW S.25 T16N R20E)

Birch Creek (32-7103)

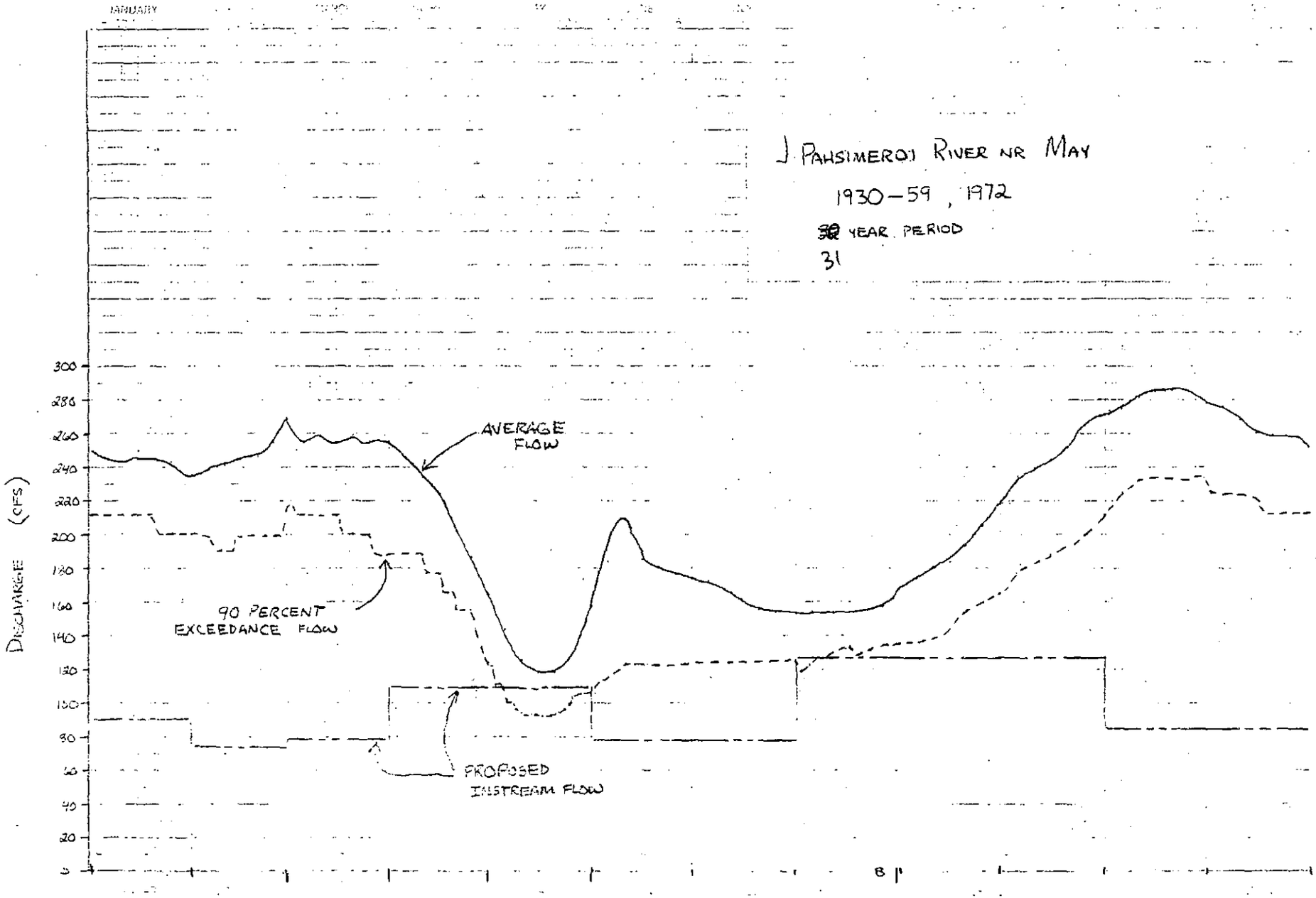
A summary hydrograph analysis was performed on the data from the USGS gaging station Birch Creek at Eight Mile Canyon Rd nr Reno. Some of the results are illustrated in Table 3. Since there are no data for the November-March period, the discussion will be limited to the April-October period. There appears to be sufficient water available for the proposed 30 cfs instream flow since it is less than the lowest observed flow and considerably less than the average flows. The stream is fed by groundwater to a large extent and as a result does not fluctuate greatly. Data from the Birch Cr. at Blue Dome Inn site, about five miles upstream from the Eight Mile Canyon site, show that there is sufficient water for the instream flow. The minimum observed flow at the upstream site was 47 cfs.

MICROFILMED

K+E 1 YEAR BY DAYS X 250 DIVISIONS
KEUFFEL & ESSER CO

46 2890

FIGURE 1. SUMMARY HYDROGRAPH, PAHSIMEROI RIVER NR MAY



ROUTING SLIP

DATE 12/20/79 TIME

TO: ~~Southern~~ Eastern

REF. (if any)

FROM: (show title)
Bert

FOR YOUR:	REVIEW AND:	PER:
☐ Information	☐ Call Me ☐ See Me	☐ Our Conversation
☐ Approval	☐ Comment & Return	☐ Your Request
☐ Signature	☐ Take Proper Action	☐ Boss's Request
	☐ Draft a Reply for Me	

IWRB - Minimum Instream Flow application. Please send copy after numbering and hold off on advertising till notified.

Thanks

DESTROYED
MICROFILMED

13-7045

STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

600 SO. WALNUT ST. — P.O. BOX 25
BOISE, IDAHO 83707

December 6, 1979

RECEIVED
DEC 11 1979
Department of Water Resources

Mr. C. Stephen Allred, Director
Idaho Department of Water Resources
Statehouse
Boise, ID 83720

Dear Steve:

We would like to present an instream flow application for the Pahsimeroi River at the next meeting of the Water Resource Board. The river section for which an established instream flow is desired is the lower area which is essential to the Idaho Power Company anadromous salmonid programs.

Please let us know the time and location of the next meeting.

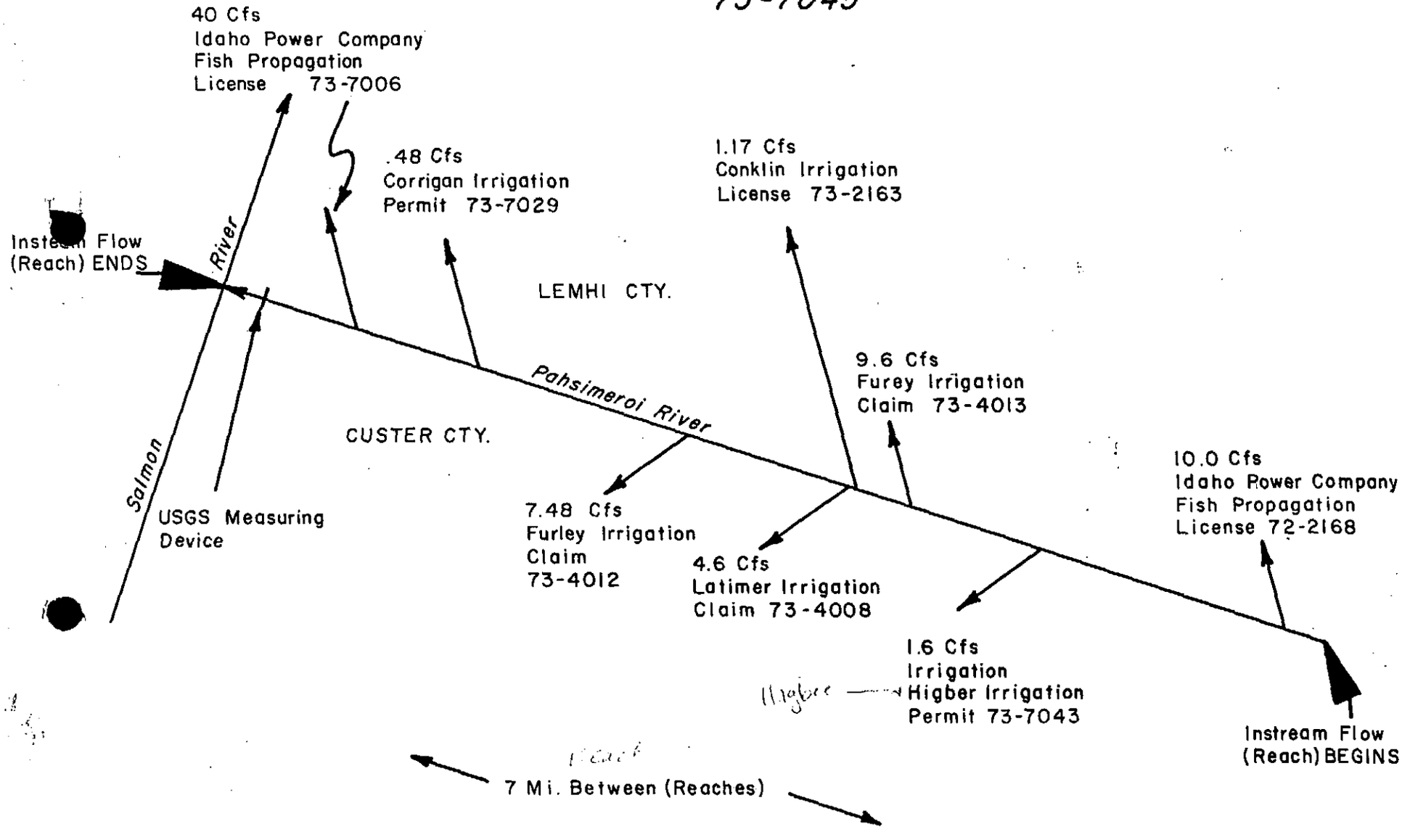
Sincerely,

DEPARTMENT OF FISH AND GAME

Joseph C. Greenley
Director

MICROFILMED

PAHSIMEROI RIVER
73-7045



Board Requested Flows Cfs By Month-

J	F	M	A	M	J	J	A	S	O	N	D
85	74	78	109	109	78	78	127	127	127	85	85

August 8, 1980

Representative Ray E. Infanger
Route # 1 Box 174
Salmon, Idaho 83467

Dear Representative Infanger:

Enclosed please find copies of tapes recorded at the minimum stream flow hearing on the Pahsimeroi River at Challis on July 9, 1980. Copies of tapes 2,3, 4,5, and 7 are enclosed since they include testimony of the Fish and Game Department personnel, and of Mr. Don Blatz, per your request.

Note that these tapes were recorded on a four channel recorder, a Sony. This machine records two channels on one side and two channels on the other simultaneously, so only one direction of tape can be used. Therefore, to listen to the entire recorded message, a four channel machine should be used.

If you wish more information about the hearing, please give me a call.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

RECEIVED
JUL 31
Department of Water Resources
Eastern District Office

John Bruggenkamp
May, Idaho 83253

July 30, 1980

Director of the Idaho Dept. of
Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Sir:

I would like to protest the granting of the water right filed on by the Fish and Game. It is the one on the Teton River below the Dowton Lane that called for minimum stream flow of between 72 and 138? cubic ft. per second.

This water can better be utilized by farmers & ranchers in the area to keep up the water table and to use for crops.

Also they admitted the return of fish was better when put

in at the lower installation where there is always plenty of water. They also have plenty room down there for any wearing goods they might need.

Yours Respectfully
John Bruggenkamp
May, Idaho

P.S. Hope this gets there on time

JOHN BRUGGENKAMP
MAY ID 83253

ELLIS, ID
JUL
30
P M
1980
83235

USA 15¢

Director of Idaho Dept. of Water
Resources
1515 Lincoln Road
Idaho Falls, Idaho
83401

MICROFILMED

August 1, 1980

L. L. Anderson
Box 184
Challis, Idaho 83226

Dear Mr. Anderson,

RE: Minimum Stream flow Application # 73-7045, Pahsimeroi River

At the hearing on the above referenced application you requested to be a full party. However, you made no statement at the hearing.

If you desire to continue to be a full party in this matter please submit a statement of your position to this office by August 10, 1980. If we fail to receive a statement we will assume that you have opted to be an interested party rather than a full, participating party.

Thank you for your interest in this matter.

Sincerely,

DAVID R. TUTHILL, JR.
Supervisor, Water AllocationsSection

DRT:mr

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
(208) 879-4488

July 25, 1980

RECEIVED
JUL 28 1980
Department of Water Resources

Stephen V. Goddard
Deputy Attorney General
Idaho Dept. of Fish and Game
P. O. Box 25
Boise, Idaho 83707

Re: Pahsimeroi Water Users

Dear Steve:

I still have not received the information promised on the stream flow on the Pahsimeroi and measurements, points for taking and so forth.

It was my recollection that I was to receive this information within 15 days after the hearing.

Very truly yours,

James R. Bennetts

JRB:dl
cc: Norman Young
Dept. of Water Resources
Boise, Idaho

MICROFILMED

Sent 7/25 (Before receipt of this letter)
DRT

July 28, 1980

Mr. Steve Goddard
Idaho Department of Fish and Game
Statehouse
Boise, Idaho 83720

RE: Application for Permit No. 73-7045, Pahsimeroi River

Dear Steve:

Pursuant to your suggestion we have compiled water supply information found in Water Information Bulletin No. 31 entitled "A Reconnaissance of the Water Resources of the Pahsimeroi River Basin, Idaho" (1973). As you indicated, there are three (3) sections which are useful in evaluating this application.

The enclosed map designates the locations of sections 7, 8 and 9. Each section is an imaginary line which bisects the Pahsimeroi Basin, across which all surface water flows are measured. Section 7 crosses the Pahsimeroi River at the Dowton bridge, located just upstream from the point designated as the upper end of the MSF reach. Section 8 crosses the river at Bursteadt Lane, and section 9 crosses just upstream from the mouth. The enclosed data table (page 57) summarizes the streamflow measurements made at these three sections. Note that the flows for each section are divided into two quantities, (1) the flow in the Pahsimeroi River, and (2) the total of all other flows crossing the section.

To place the streamflow data for 1971 and 1978 in perspective, the Department hydrologist, Mr. Bill Ondrechen, has examined stream gaging station information. The Pahsimeroi River gaging station was not monitored in either 1971 or 1978. However, by comparing available Pahsimeroi River data with data obtained on nearby rivers he determined that the Lemhi River exhibited the same type of flow relationship between years as the Pahsimeroi. For the Lemhi River, 1971 annual discharge was about 120% of average and 1978 annual discharge was about 90% of average. These results could be extrapolated to the Pahsimeroi with reasonable confidence. Thus the 1978 data provided by the Department of Fish and Game can be con-

sidered to be about 90% of average, and the data taken on sections 7, 8 and 9 can be considered to be about 120% of average.

This information, as well as the flow measurement information you supplied has been sent to J.R. Bennetts and to Reed Hansen. In addition they received copies of all exhibits submitted at the hearing and a copy of a letter from Idaho Power Company, also inclosed herein. We have asked to receive a response by August 10, 1980.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

July 25, 1980

J. R. Bennetts
Attorney at Law
Challis, Idaho 83226

RE: Minimum Stream Flow Application #73-7045, Pahsimeroi River

Dear Mr. Bennetts:

Enclosed please find copies of information added to the hearing record for the Pahsimeroi River minimum stream flow (MSF) application.

The Idaho Department of Fish & Game has provided flow measurements used in their minimum stream flow analysis. These flow measurements were all made on July 20, 1978, and were taken at four stations within .25 miles of each other, about 1.3 miles upstream from the confluence with the Salmon River. Copies of each are enclosed.

In addition, this office has extracted some information from a Department of Water Resources Water Information Bulletin entitled "A Reconnaissance of Water Resources of the Pahsimeroi River Basin, Idaho" (1973). This bulletin documents stream flow measurements taken across nine (9) sections within the Pahsimeroi River Valley. Three sections are located within the reach defined by the MSF application.

The enclosed map designates the locations of sections 7, 8 and 9. Each section is an imaginary line which bisects the Pahsimeroi Basin, across which all surface water flows are measured. Section 7 crosses the Pahsimeroi River at the Dowton bridge, located just upstream from the point designated as the upper end of the MSF reach. Section 8 crosses the river at Bursteadt Lane, and section 9 crosses just upstream from the mouth. The enclosed data table (page 57) summarizes the streamflow measurements made at these three sections. Note that the flows for each section are divided into two quantities, (1) the flow in the Pahsimeroi River, and (2) the total of all other flows crossing the section.

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either 1971 or 1978. However, by comparing available Pahsimeroi River data with data obtained on nearby rivers he determined that the Lemhi River exhibited the same type of flow relationship between years as the Pahsimeroi. For the Lemhi River, 1971 annual discharge was about 120% of average and 1978 annual discharge was about 90% of average. These results could be extrapolated to the Pahsimeroi with reasonable confidence. Thus the 1978 data provided by the Department of Fish and Game can be considered to be about 90% of average, and the data taken on sections 7, 8 and 9 can be considered to be about 120% of average.

Copies of Department of Fish and Game and Department of Water Resources Exhibits are also enclosed as indicated at the hearing, as well as a copy of a letter recently received from Idaho Power Company. Please submit any response and briefs to this office by August 10, 1980.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

INTER-DEPARTMENT MEMO — 1

FROM BILL ONDRECHEN, HYDROLOGY SECT. DATE 7/24/80

TO DAVE TUTHILL, WATER ALLOC. SECT.

SUBJECT

IN ORDER TO ESTIMATE THE RELATIVE MAGNITUDE OF FLOWS ON THE PAHSIMEROI R FOR '71 AND '78, I LOOKED AT THE RECORD FOR THE LEMHI R. NR LEMHI. THESE BASINS HAVE SIMILAR DRAINAGE AREAS, STREAMFLOW CHARACTERISTICS, AND IRRIGATED ACREAGES. SINCE THEIR RECORDS ONLY OVERLAPPED FOR 4 YEARS, IT WAS NOT POSSIBLE TO DEVELOP A CORRELATION BETWEEN THEM. THE LEMHI R. EXIBITED THE SAME TYPE OF FLOW RELATIONSHIP BETWEEN YEARS AS THE PAHSIMEROI. IN OTHER WORDS, THE LARGE GROUNDWATER STORAGE IN THE BASIN HELPS ATTENUATE THE MORE WIDELY FLUCTUATING ANNUAL PRECIPITATION. FOR EXAMPLE 1978 ANNUAL DISCHARGE

SIGNATURE

(OVER)

ON THE LEMHI WAS 90% OF LONG TERM AVERAGE, WHEREAS FOR MOST OTHER STREAMS (SNOWMELT RUNOFF INFLUENCED) IN THE SALMON BASIN, 1978 WAS 110 — 120% OF AVERAGE.

ASSUMING THE TWO BASINS RESPONDED SIMILARLY DURING THE YEARS, 1971 ANNUAL DISCHARGE WAS ABOUT 120% OF AVERAGE, WHILE 1978 DISCHARGE WAS ABOUT 90% OF LONG TERM (20 YEAR) AVERAGE.

BILL



RECEIVED
JUL 21 1980
Department of Water Resources

IDAHO POWER COMPANY

BOX 70 ○ BOISE, IDAHO

DIRECTOR	
DEPUTY DIR.	
RESO. ADMIN.	
RESO. ANALYSIS	
OPER. BUREAU	
TECH. SER. BUR.	
PROJ. STUD. BUR.	
LEGAL	
FISCAL	
PERSONNEL	
REG. BUREAU	
S. REG. N. REG. W. REG. E. REG.	
FILES	

July 18, 1980

Mr. Steve Allred, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83724

RE: Instream Flows - Pahsimeroi River

Dear Mr. Allred:

On behalf of the Idaho Power Company, I wish to offer the following testimony concerning proposals by the Idaho Department of Fish and Game to maintain minimum instream flows in the Pahsimeroi River.

Since 1967, the Company has owned and operated facilities to collect adult steelhead trout, collect steelhead eggs and to release juvenile steelhead in the Pahsimeroi River. These facilities are owned, maintained and operated as part of the Federal Energy Regulatory Commission License No. 1971, which authorized construction and operation of Brownlee, Oxbow and Hells Canyon hydroelectric power projects, and are an integral and essential part of the Company's anadramous fish mitigation program. The Pahsimeroi facilities are operated in conjunction with a Company owned steelhead hatchery operated on Niagara Springs in the Hagerman Valley.

Present operations are to obtain steelhead eggs from adults returning to the Pahsimeroi facilities, incubate the eggs and ship them to the Niagara Springs Hatchery for hatching.

The steelhead fry are placed in raceways at Niagara Springs Hatchery and reared until the following spring when they are trucked back to the Pahsimeroi and released as seaward-bound smolt.

The Pahsimeroi facilities are essential for the successful operation of the Niagara Springs Hatchery, and the anadramous fish mitigation provisions of the Federal Energy Regulatory Commission license.

DEPARTMENT OF WATER RESOURCES

The Company has invested over $400,000.00 in the Pahsimeroi plant facilities. Over $865,000.00 has been invested in the Niagara Springs Hatchery plant facilities. Since its beginning, total cost of the Company's anadramous fish mitigation program has topped 15 million dollars.

It is our feeling that granting the minimum instream flows being recommended by the Idaho Department of Fish and Game will protect against the loss of water supplies which are essential to the preservation and maintenance of Idaho's anadramous fish and runs and the continued successful operations of the Pahsimeroi and Niagara Springs facilities. Based on past stream flow records, we believe the flows proposed are capable of being maintained, that they are necessary for the continued successful operation of the Pahsimeroi and Niagara Springs fish facilities and are in the best public interest.

In addition to the Company's ongoing program, it will, in the near future, be expanding its anadramous fish mitigation program. This expansion will include increasing the steelhead capacity of both Pahsimeroi and Niagara Springs operations as well as developing a program and facilities to introduce and enhance spring chinook salmon into the Pahsimeroi River.

It is anticipated that the new Pahsimeroi facilities will probably require some additional non-consumptive uses of river water. Therefore, the Company will probably request additional water and the support of Idaho's water and fish agencies for support of that right.

Thank you for this opportunity to comment on the proposed minimum flows for the Pahsimeroi River.

Sincerely,

Allan R. Ansell

Allan R. Ansell
Environmental Biologist

ARA:lf
cc: Jerry Conley
Idaho Dept. of Fish and Game

July 23, 1980

Mr. Joseph Higbee
Ellis, Idaho 83235

Dear Mr. Higbee:

During the minimum stream flow hearing concerning the Pahsimeroi River on July 16, 1980 in Challis you expressed a concern that a water right for 1.2 cubic feet per second was not included in Department Exhibit #2.

I have researched our records and found no such water right. Please provide me with additional information on this water right, so that we can resolve this matter.

Sincerely,

DAVID R. TUTHILL JR. P. E.
Supervisor, Water Allocation Section

DRT:jg

July 25, 1980

Worth Boggeman
Challis, Idaho 83226

Dear Mr. Boggeman:

During the minimum stream flow hearing concerning the Pahsimeroi River on July 10, 1980 in Challis, you expressed a concern that your claim to a water right was not included on Department Exhibit #2.

This letter is to confirm that I have researched our records on the Pahsimeroi River, and have found your claim no. 73-4009 to be properly filed and recorded with the Department. Your right did not appear on the exhibit due to an oversight, and it has been added to the exhibit for the Director's consideration in the review of this matter.

Thank you for pointing out the discrepancy. I apologize for the error.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

July 23, 1980

Mr. Dick Coleman
Babe Ellis Ranch
May, Idaho 83253

Dear Mr. Coleman:

During the minimum stream flow hearing concerning the Pahsimeroi River on July 10, 1980 in Challis you expressed a concern that your water right claim was not included in Department Exhibit #2.

I have researched our records and found no recorded water right in your name or the name of the Babe Ellis Ranch. Please provide me with more information on the water right in question, so that we can resolve this matter.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

July 23, 1980

Mr. Donald A. Blatz
Box 23
Ellis, Idaho 83235

Dear Mr. Blatz:

During the minimum stream flow hearing concerning the Pahsimeroi River on July 10, 1980 in Challis you expressed a concern that your water right claim was not included on Department Exhibit #2.

This letter is to confirm that I have researched our records on the Pahsimeroi, and have found your claim No. 73-4017 for 7.8 cfs irrigation to be properly filed and recorded with the Department. The reason that your right did not appear on the exhibit is that the source on your claim was incorrectly computerized, causing no sign of diversion on our computer search.

A copy of this letter will be placed in the hearing file for the Director's consideration in his review of this minimum streamflow application. Thank you for your information. I apologize for the error.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

5 Points
1. No interference
2. Public interest
3. B/Uses
4. Min flow
5. Capable of maintained

NOTES ON PAHSIMEROI R. MSF # 73-7045

CHALLIS HIGH SCHOOL — D. TUTHILL

CENTRAL ID MINING ASSN - INTERVENOR

L.L. ANDERSON

ATTY BENNETT, INTERVENOR, REP. W.D. 73 & ROY ELLIS

CHARLES KISL

Bengham

Tom Levandowski for F&G

Estimates an increase in the upper diversion from the existing 10 cfs to 20 cfs

Corrections to diversions:

✓ Furley — Furey

✓ Higbee - Higbee

✓ Higbee - 12 cfs May?

✓ Blatz - Claim

✓ Boggeman, Worth - Claim Challis (9.2)

✓ Coleman, Dick Babe Ellis Ranch May

Letter Sent Over

Also look for

7043

7017, 4017 ✓

4009

7021 - Lapsed

KENT BALL F&G

Fish released from lower facility since 1972

19,000 steelhead } captured

3,000 salmon }

Fish Economics

30 hrs per fish, 4 hrs per day ⇒ 7.5 days @ $71.00/day

≈ $500.00/fish

(2000 fish/year ⇒ $1,000,000/year)

MICROFILMED

Rainbow ↑ spawn in April & May

- Fish & game has no flow info for Pahsimeroi R.

- Idaho Power facilities will be expanded to accomodate increased salmon run poopulation. How will the water right be obtained.

→ Provide copies of all exhibits to full parties

Salmon facilities will be built whether or not this app is approved.

FRANK W. WELSH

Pahsimeroi R. is the prime fishery in this area

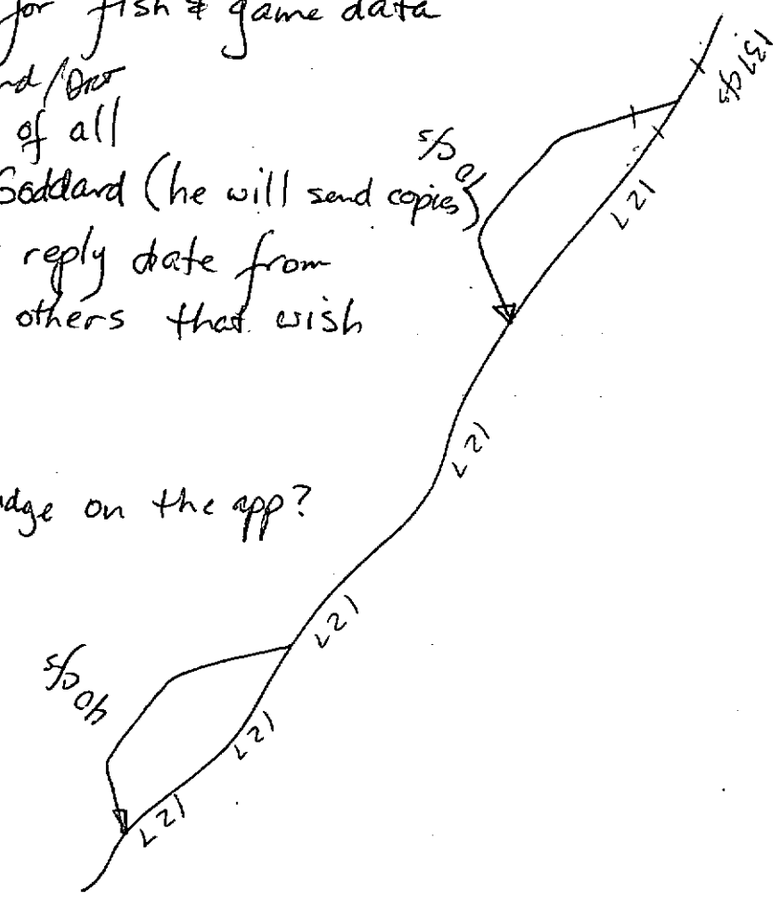
Herb Pollard - State Fishery Manager since 1975

→ Record open for fish & game data

→ We will send / Provide list of all parties to Goddard (he will send copies) 15 days for reply date from Bennett & all others that wish to reply

→ Mouth to Bridge on the app?

Perhaps a lowering of the upper point to the point of discharge of the upper Id Power right would work



Mr. Bennets

- Mr. Hunt, Glenns In charge of local SCS office since 1957.

Recharge occurs in late season from high amounts of early irrigation

Many acres downstream are suitable for irrigation

- MR Sid Doughton Challis
- Jim Doughton
- MR. O'Niel

- Leave Record open until Aug 12th.

Mr Infanger

- would like more info on Salmon vs. Pahsimeroi
- Data at mouth of stream only
- Request new hearing for late September

Mr. Tibbits

- MSF is good for this stream but amount is excessive

Mr Blatz

- Twice as much water in river at mouth as at Doughton
- High loss of fish in canals
- 1969-1970 down to 20 cfs in river
- April 15 - May 1 almost insufficient water many years

MR. Hawkins, James Cooperative Extension Service

90-100 day growing season

will submit report to record.

Pahsimeroi — 73-7045
HEARING NOTES 7/9/80

Jim Bennetts

Full Parties

IWRB — REED HANSEN, FRANKLIN JONES
F & G — Steve Goddard
Water Dist 73 — Jim Bennetts
Central Idaho Mining — C. C. Anderson

Public TESTIMONY

SYD DOUTON —
Jimmie Douton
Ray Ellis
Don Oneal
Louie Demrest
Ray Infanger

Tuthill

Accepted Staff exhibit #1 — Locater map
Accepted Staff exhibit #2 — schematic of water rights
Corrections — Funley : "Furey"
Higbee = Higbee
Higbee — 6.2 cfs right
exceptions BLATT — claim
Boggeman — claim.
No Decrees
No future claims
Babe Ellis Ranch — Coleman claim
Staff Exhibit #3 — Pahsimeroi Hydrograph
Bennetts — is this representative of flow at Douglas Lane — AWS not totally

Note — Allowed citizens to ask questions — No objection from full parties —

Louie Demprest — Will any water be available for future appropriation — Tuthill can't tell

Goddard — Doesn't flow already reflect diversions — yes

Doudon — Concern for minimum flow being denied by IWRB at expense of upper users

Water asking for is not available at upper reach most of the time

Infanger — Chart doesn't show drought flows

Irregular to ask for higher flow @ low flow period

HANSEN —

Boards did not hold hearing used information supplied by F&G — felt the application met the requirements of law

~~Bennetts~~ —

Tibbetts — didn't ~~F&G~~

Doughten — objected to timing —

Goddard — Believes it meets all 5 criteria

Levendofske — Location of upstream point — ¼ M. below Doughten Cove bridge @ acclimation ponds — 13 River miles downstream — 9 miles road — to river

Measuring point — only won't flow below the point of return of fish acclimation pond —

Important for summer chinook & steelhead

Surplus eggs used other places — yes have stocked upper salmon river — have allowed some adults to move upstream for natural spawning on some years

$325,000 hatchery cost
$63,000 acclimation pond cost
$40,000 annual budget
$11,000 annual budget for monitoring return

Nilgen springs (Hatchery) rears yearling smolts
$866,000 cost
$183,000 annual budget

Plans to expand Chinook by 1 million smolts — $125,000 annual cost
FOA to power will pay
$300,000 to $400,000 cost for facilities on Pahsimeroi — Release from upper site

Best rearing habitat for steelhead & chinook — Important for wildlife & fowl — Most important reach of stream

Fish screens on all irrig diversions — maintained by F&G

Irrigation Diversions —

Low river flow @ upper facility in May & June — spring flows increase in late [redacted], river flow picks up.

ISF is needed to protect for future anadromous [redacted] uses

1 cfs will produce 10,000 lb — No that's for a raceway @ a hatchery.

(L.L. Anderson Left)

Hansen — X-Exam

Strip all fish — ½ of salmon as average over years — Spawned all the steelhead on most years

What time of year are juvenile steelhead released — Trucked from N. Lyon Creek — April 1st to 15th or 16th

Barretts —

Aren't some of steelhead juveniles dumped at mouth — yes, have dumped last few years at trapping facility not rearing ponds

How can you assume that you can take 20 cfs for new development if instream flow is granted — (don't know)

Doughton — adequacy of structure (?)

Would be a whole new structure

Amount of flow — Don't know at upper section

Intake — at upper facility or could development be on saranac — No knowledge of existing investment on Pahsimeroi

Further down on Pahsimeroi — Convinced that enough water exists @ upper points

How many pounds of fish can / cfs handle on Pahsimeroi? —

Tibbets — why such large flows? —
why gauge only @ mouth? —

Goddard

Kent Ball will testify to why stream flows are necessary —

Welch why Pahsimeroi is necessary

Pollard —

Kent Ball — fishery biologist

FWG exb 1 — release 1966 - 1990

Accepted → thru #9

How were flows recommended for Pahsimeroi River determined — Ex. 2 & 9 —

IDEAL Flow would be bankfull — 140 to 150 cfs —

Opinion of flows necessary — yes flows as requested are necessary —

Public interest — Yes

Harassed (← EXAM)

Benefits

Why 95% of catch on Applic. — Ex. 7 doesn't compare — Couldn't answer —

Historically — Pahsimeroi is now much more important to total fish returns than in past —

[L. L ANDERSON RETURNED]

ISN'T it a fact that reason for the results from Pahsimeroi River is as a result of man manipulating water resources rather than living in the river? Yes, but important to have water in river for moving the fish t rearing than.

Data for computer — Bell responded cross-section + flow, steepness of bank, —

Isn't water temp. important? Yes but not included in program because of man's expertise in knowing it's adequate —

MAN who collected flow & developed the curve (Tim Cochenour) is now here.

Request in the fall is for future development of Chinook runs — (yes)

UNOFFICIAL RECORD

Allowed Bennetts opportunity to brief exhibits — FTC opportunity to respond

McCall Hatchery also raises Summer Chinook — yes

But Pahsimeroi is essential for Summer Chinook — yes

— How much flow is necessary for passage of salmon — don't know — but would be less than spawning — →

Crystal — Why is Pahsimeroi better than Lemhi or Salmon — How about D.O. —

Lemhi is excellent but flow is not assured

Salmon is less fertile —

D.O. would be at

Lunch Break

Clearwater W. (Butch) Welch — Cons. Off.

Patrols area including lower Pahsimeroi

Looks @ Pahsimeroi 50 to 70 times a season

Best stream fishing in Patrol area

Rainbow

Dolly Varden

Cutthroat

Eastern Brook

Heavy fishing area

Good portion of duck hunting in Custer Co.

Muskrat + Beaver trapping —

Good early season fishing because it clears early.

Opinion as a professionally trained biologist — feels that biological damage would occur if the flow dropped below a certain amount — wouldn't say what that flow was —

X-Exam —

does check hunting include tail & sloughs — so yes

Habitat is good why — slow stream ambient banks — good for the adjacent soils.

Use of flood irrig help recharge springs & sloughs — Yes

Redirect — Recharge

Herb Pollard — Fisheries biologist

Involved in preparation of FTC request? yes — filled out major portion

Pollard explained rationale for determining instream flow rate recommendations

9 stations on stream

15 days after FTC synoptic biological data then with copies to parties the Remarks will brief on ask for hearing 15 days after brief is filed FTC will appl

Clarify reaches of stream — yes mouth to Bowton Lane Bridge —

Is Water available? Referred to exhibit 3 of staff — said it was available because 30 cfs already taken out

Page II W.O # 30 — "future ag. development must rely on g.w."

Do an instream flow a lock up of water? No, IWRB could revise or Legis. could revise upon finding of public benefit.

Inserted the 85% lowest stream in application — This is due because the salmon river drainage was the only stream gage & lowest —

Opinion that flows requested are necessary to maintain the fishery?

Yes —

X-Exam — Hansen

Does flow have to be that great at that point? — yes from the discharge of aeration pond

Benefits

Take input — must flow be at all points be 127 cfs from Dalton Bridge to mouth of Pahsimeroi — Yes, but review of Coleman would say it is revise the application — but that is the request.

Intention of request is to avoid a situation such as Leslie when during low flow the river is dry —

Timing — with plans & spend money & develop — who file before that project is filed on.

MICROFILMED

Point is well taken - except that would be immediately returned to its source.

Redirect -

Mr. Bennetts

Tape 6

Glen Hunt - Box 305 Challis - SCS conservation technician - measures water snow surveys - 1957

Pahsimeroi lowest early spring - picks up in summer & fall

What would pick up the largest flow rate - one more water in upper Pahsimeroi -

If ranchers were concerned that less water were available to them they would switch to sprinklers - that would reduce flows -

At Pahsimeroi last Friday - est. that more than twice the water @ Bunsted lane as the ~~Pahsimeroi~~ river daughter river - no estimate of diff @ river -

Recharge from irrig is important to establish good habitat for waterfowl + big game Going to sprinklers could change this - Continue to use all the water we can on highlands because of good storage - returns @ critical time / year -

Tape 6 82'

Mr Hansen - X-Estate - land in Lemhi

on ~~drip~~ sprin ⇔ was to sprinkler
now its back to surface — cost of
energy.
3/4 miles inch with sprinkler now
3 miles with surface acre

High early spring diversion rates —

238. Goddard — (R-Okan)

Could delayed recharge be at least partly
natural recharge — yes, but precip doesn't
much exceed 10" soil ~~rechg~~ holding capacity —

Considerable potential for development
of more ag lands in lower Palouse river

Redirect —

Syd Dowton SR — Salmon Idaho —
opposes in stream flow request
knows all about river — 62 years on
river —
We raise fish up here for people
to catch down below —
ask that application be rejected
will stop improvements to the
valley —
opportunity in lower end of
valley for irrig development —
will hurt tax base because
lands cannot be developed —
don't need more than the 5 cfs.

Jim Newton — Dist #73 —
Would force ranchers to water to sprinkle —
Would dry up springs & bottom ground —
Damage would occur to habitat
Prevent development of grain & ag ground —
Represents Custer soil dist —
Would reduce tax base
Would force sprinkle with
Hurt upland game habitat by
concrete ditches —

Tape 6 Doesn't feel water is available in river for flows requested — would force cut back of high water use — thus force to use sprinkler.

Further development would be sprinkler —

~~Geddes~~ —

Ray Ellis — Ellis, Idaho
Protest — Not enough information on water supply or system used —
Objects to filing by state agency until after 1983 claims deadline — Records are not yet complete —

Don O'Neal — Leslie & Leslie Co.
Commissioner —
Would stop future ag development
May be ruled as ag lands are lost to development
Use in Leslie & Custer Co — don't just

sent down to Salmon River &
Use more in upper valley to
recharge –

→ Leave record open until Aug 1, 1980

Accepted Mr Bennetts brief on
stipulation that FCA could respond
prior to Aug 1, 1980

Intervenors

(1) Not enough information on why not
Salmon instead of Pahsimeroi
(2) Not enough data on flow needs
→ (3) Requests new hearing because of
inopportune time – late September –

Tibbetts

(1) Request is excessive – don't need all of it
(2) Do need to maintain – but only the
needs not the wants –
(3) Protest on excessive – could get along on
much less –

Blatz –

(1) Located in reach of the requested flow
160 acres –
(2) takes water starting 4/-5 4/15 to 5/1 1969-70
(3) 800 to 1000 mile was all that used left
at one time below his diversion –
River built up to a good flow by donated
waters adequate
(4) If fish are released from upper ponds
great loss of adults thru diversions
(5) Should not release @ lower end near town

(6) Fish release hunts yhe'

John Waite — Salmon, Idaho

Fishing outfitter & guide — fish is his livelihood —

Bad time of year for hearing for outfitter & guide to attend a hearing —

Tremendous amount of income from fisherman

Fishing biology is more complicated than farming —

Hypoth written flow as requested by experts

Jim Hawkins — Custer Co. Agents

Recreation survey related to tourist trade — polled 85% of Business in Custer Co —

Tourist trade give profit but local trade needed to keep doors open

Study shows custer co doesn't really depend upon tourism for livelihood.

Concern for further development — 90 to 110 day growing season — June 1 to Sept 10 for killing frost —

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STATE OF IDAHO

DEPARTMENT OF FISH AND GAME 600 SO. WALNUT ST. – P. O. BOX 25
BOISE, IDAHO 83707

July 9,1980

Statement of Kent Ball, Regional Fisheries Biologist, Idaho Department of Fish and Game, Salmon, Idaho.

The Pahsimeroi River is of vital importance to the fisheries programs in the upper Salmon River drainage. Historically, the Pahsimeroi River supported wild populations of steelhead trout and summer chinook salmon, in addition to the native resident trout species.

Currently, there are two fish hatchery facilities on the Pahsimeroi River. These hatcheries are operated by the Idaho Department of Fish and Game for Idaho Power Company, who owns the facilities and funds their operation. Fish raised or released from these facilities are part of a program to relocate fish runs blocked by Idaho Power Company dams on the Snake River.

The hatchery supported steelhead program began in 1965 when eggs were taken from adults in the Snake River and their progeny released in the Lemhi and Pahsimeroi Rivers. Since 1967, an average of 1,471,000 migrant-size steelhead have been released annually into the Pahsimeroi River (Table 1). Prior to 1972, most of the steelhead juveniles were released from the ponds at the upstream hatchery facility near Dowton Lane. Since 1972, the release site has been the downstream hatchery. Most of these fish migrate to the ocean during the year of release, but some rear in the Pahsimeroi River until the following year.

Summer chinook salmon were reared and released from the upstream facility from 1970-1978 (Table 2). During these years, an average of 283,400 juvenile summer chinook were released annually in May. A major portion of these fish reared in the river for one year and migrated to the ocean the following April. These fish were raised as part of the Columbia River Program. Construction of additional facilities for raising summer chinook is planned for 1980 or 1981. When the facilities are completed, one million summer chinook salmon will be released in the river each year. Idaho Power Company will fund this program. The final rearing program has not been determined at this time. If the fish are released early, many of these fish would rear in the river for one year before migrating to the ocean.

Adults returning from juvenile fish stocked in the Pahsimeroi River are diverted by a weir into the adult holding facility in the lower river. The first hatchery-reared adult steelhead returned to the Pahsimeroi facility in 1969. In the last 12 years, 19,932 adults have been handled at the holding facility (Table 3).

EQUAL OPPORTUNITY EMPLOYER

Summer chinook salmon adults are also diverted into the holding facility. Adults have been trapped in 10 of the last 11 years and a total of 3,568 adult salmon have been handled (Table 4).

Not all of the adult fish are spawned at the hatchery facilities. Since 1969, 830 adult steelhead and 1,756 chinook salmon were counted and released to continue their spawning migration upstream (Table 5). The number of fish released to spawn naturally depends, in part, on the run size. During years when large numbers of fish return, more fish will be released to the upper river. The Pahsimeroi River is a very productive spring fed stream and has the capability of producing large numbers and pounds of fish. In 1979, 267 of the 384 adult steelhead passed above the weir were females and should have deposited 1,200,000 eggs in the gravel. These fish are rearing in the river right now and will migrate to the ocean in 1981 and 1982. Similarly, in 1972, the 152 female chinook salmon passed above the weir should have deposited 836,000 eggs in the gravel.

Fish reared under other programs are also released in the Pahsimeroi River. In 1978 and 1979, 196,000 steelhead fry were released into the upper Pahsimeroi River. The Cooperative Fishery Unit released 325,700 migrant-size steelhead raised by the Fish and Wildlife Service in 1979 and 1980 (Table 6).

Steelhead and salmon from the Pahsimeroi River are making a major contribution in Idaho fisheries as well as other fisheries downstream. The Department of Fish and Game monitors the steelhead fishery in the Salmon River below North Fork. Since 1969, we have been documenting the proportion of hatchery-reared steelhead in anglers' creels. Most hatchery-reared fish retain evidence of hatchery origin in their fins. Hundreds of known hatchery fish have been examined and we have correctly indentified rearing history on 91% of the fish. Adult steelhead from programs in the Pahsimeroi River have increased from about 20% of the catch in 1969-71 to 69,75 and 74% in the last three years (Table 7).

On the average over the last 12 years, the estimated harvest of steelhead from the Salmon River between the South and North Forks is equal to the number of fish returning to the Pahsimeroi hatchery. In other words, anglers have harvested about 20,000 adult steelhead of Pahsimeroi hatchery origin from the aforementioned river reach since 1969. Substantial numbers of hatchery steelhead are also caught from the Salmon River between North Fork and the Pahsimeroi River, the lower Salmon River, and the Snake River.

Steelhead and salmon from the Pahsimeroi River make a substantial contribution to the economy. It's especially important to the local area. During the last 12 years, it has taken the anglers a seasonal average of 30 hours to catch a steelhead from the Salmon River between the South and North Forks. Therefore, I estimate that about 600,000 angler hours were expended since 1969 to catch the 20,000 Pahsimeroi hatchery fish from the Salmon River. The average angler spends about 4 hours fishing per day, so effort can be expressed as 150,000 angler days. Doug Gordon conducted an extensive economic analysis of Idaho Sport Fisheries in 1968 and published a value of $30.58 per angler day for steelhead fishing. Using the consumer price index, I updated Gordon's value to the 1980 value of $71.87 per angler day. Therefore, the 150,000 angler days represents a net value of $10,781,000 over 12 years. Or, the average value per year can be expressed as $898,000. This estimated value is for hatchery steelhead harvested from about 80 miles of the Salmon River and only about half of these miles has road access. If economic values were available for hatchery steelhead and salmon caught elsewhere in

the Salmon, Snake and Columbia Rivers, the total value could be approximately 1 million dollars per year. I did not make any attempt to estimate the economic value of summer chinook salmon or resident trout, but they also make an important contribution to the economy.

Adult steelhead are migrating upstream in February, March, April, and May. Adult chinook salmon are migrating upstream in June, July, August, and September. Juvenile steelhead and salmon are migrating downstream in the Pahsimeroi River during March, April, and May. Juvenile steelhead and salmon are rearing in the Pahsimeroi all year and the quantity and quality of rearing habitat is related to the amount of water flow within the stream channel.

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TO: DIRECTOR
DEPARTMENT OF WATER RESOURCES
For the State of Idaho
Statehouse
Boise, Idaho

NOTICE OF APPEARANCE

RE: APPLICATION #73-7045
PAHSIMEROI RIVER MINIMUM STREAM FLOW

The Upper Snake River Water Users Protective Union, Jack Billings, Pingree, Idaho, Chairman, hereby files its appearance, by and through its legal counsel, Kent Foster of the firm of Holden, Kidwell, Hahn and Crapo, Box 129, Idaho Falls, Idaho 83401, and James R. Bennetts, Box 36, Challis, Idaho 83226, for the purpose of protesting the issuance of a Permit, or the approval, or recommendation for approval of that certain Application for Permit, #73-7045, filed by the Idaho Water Resource Board, with a public hearing set for 9:00 a.m., Wednesday, July 9, 1980, at the Challis, Idaho High School Gymnasium.

Further, the parties respectfully request the opportunity to offer briefs and comments within a reasonable time subsequent to the conclusion of the described hearing.

Please consider the Upper Snake River Water Users Protective Union a party to this matter for all purposes including, but not limited to, being furnished all available information, pleadings and notices.

Date: July 9, 1980.

KENT FOSTER, of the firm of
HOLDEN, KIDWELL, HAHN & CRAPO
Box 129, Idaho Falls, Idaho 83401
and
JAMES R. BENNETTS
Box 36, Challis, Idaho 83226

By James Bennetts
James R. Bennetts

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
TEL. (208) 879-4488

TO: DIRECTOR
DEPARTMENT OF WATER RESOURCES
For the State of Idaho
State House
Boise, Idaho

NOTICE OF APPEARANCE

RE: APPLICATION #73-7045
PAHSIMEROI RIVER MINIMUM STREAM FLOW

PLEASE TAKE NOTICE That WATER DISTRICT NO. 73 for the Pahsimeroi River, Lemhi and Custer Counties, State of Idaho, and ROY ELLIS, individually and as a member of Water District No. 73, WORTH BOGGEMAN and JACK FUREY, indivudually, and CHARLES KESL, Water Master, District No. 73, and DUANE MOEN, JOE SCOBLE, PRESTON DIXON, FRANK UNQUERA, JIM DOWTON, JOHN BRUGGENKAMP, GEORGE WHITWORTH, GILMAN MARTINY, DON M. O'NEAL and E. L. LATIMER, indivudually as well as members of Water District 73 for Idaho, hereby make their appearances in person and/or through their legal counsel, JAMES R. BENNETTS, P. O. Box 36, Challis, Idaho 83226, for the purpose of protesting the approval or recommendation for approval of that certain Application for Permit, 73-7045, filed by the Idaho Water Resource Board and set for hearing at 9:00 a.m., Wednesday, July 9, 1980 at the Challis High School Gymnasium.

The above parties offer in support of their protest a Statement of Reasons and Brief, attached hereto and made a part hereof. In addition, certain of the above parties will offer testimony or statements at the designated hearing. Further, the parties respectfully request the opportunity to offer additional briefs and comments within a reasonable time subsequent to the conclusion of the described hearing, and be furnished all notices and information to which they might be entitled in regard to this matter.

Date: July 7, 1980.

APPROVED:

Don O'Neal, Secretary
Water District No. 73

James R. Bennetts

JAMES R. BENNETTS, Counsel for Water District No. 73, in Custer and Lemhi Counties for the State of Idaho and Counsel for the above named parties in their individual capacities

John Bruggenkamp

John Bruggenkamp, President
Water District No. 73

Roy Ellis

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
TEL. (208) 879-4488

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 22, 1980

Re: Instream Flow Applications

73-7045	Pahsimeroi
32-7103	Birch Creek
36-7872	Devils Corral Springs
41-7046	E. Fk. Rock Creek

Dear Interested Party:

At the last Idaho Water Resource Board meeting held on August 26, 1980 in Twin Falls, the Board asked the Director to withhold further action on the above-referenced applications for minimum streamflow. The Board has made the request in order to conduct further investigation and research of existing water rights, and of the merits and effects of these instream flow applications.

The Director will delay further action relative to the applications until the Board has had the opportunity to conduct and complete their requested further investigation.

Please feel free to contact this office if you have questions relative to this matter.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

LGS:DRT:rf

This letter was sent to this person on Sept. 24, 1980:

James R. Bennett
Dept of Fish & Game-
attn: Steve Goddard

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SEP 15 1980
Department of Water Resources
(208) 879-4488

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226

Tuth. '11 ORT
DC

September 10, 1980

Norman Young
State of Idaho
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Application No. 73-7045

Dear Mr. Young:

We have read and reviewed the reply brief submitted by the State in regard to the above matter. We will not formally respond by brief.

We would, however, urge the Director to review the testimony and tapes very carefully in respect to this matter. Many factors need further clarification and we would urge close review in all areas. Needless-to-say, however, we feel considerable confusion existed as to the requested upstream starting point for the minimum flow. If the State is now wishing to establish that point as being below the upper Idaho Power facility, we feel that this is inconsistent with their prior position and is further, only an attempt to bail themselves out of an otherwise difficult situation.

We assume that the decision will be forthcoming in due course of time. Thank you.

Very truly yours,

James R. Bennetts

JRB:dl
cc: Stephen V. Goddard

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AUG 26 1980
Department of Water Resources

DAVID H. LEROY
Attorney General
State of Idaho
Statehouse, Room 210
Boise, Idaho 83720
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STEPHEN V. GODDARD
Deputy Attorney General
Idaho Dept. of Fish and Game
P. O. Box 25, 600 South Walnut
Boise, Idaho 83707
Telephone: (208) 334-3715

TO: Director
Idaho Department of Water Resources
Towers Office Building
450 W. State
Boise, Idaho 83720

RE: Application No. 73-7045
of the Idaho Water Resources
Board for a Minimum Stream Flow
on the Pahsimeroi River

REPLY BRIEF OF
THE IDAHO DEPARTMENT
OF FISH AND GAME IN
SUPPORT OF APPLICATION
NO. 73-7045

The Idaho Department of Fish and Game supports the minimum stream flow sought in the Board's application and feels that the points raised by the protestants are without merit and that the application should be approved.

For your convenience, the Idaho Department of Fish and Game will address the issues in the same order as raised by protestants in their brief.

1. In regard to the description of the reach of the Pahsimeroi River covered by the minimum stream flows, the application speaks for itself. Paragraph 8(a)(5) says "from the point of requested flow [8a] upstream approximately 7 miles to the fish rearing and release ponds located in NE 1/4 NW 1/4, Sec. 21, T. 15 N, R. 21 E." This indicates that the upstream point is the discharge outlet of the Idaho

Power Company rearing and release ponds located below the Dowton Lane Bridge. In addition, Fish and Game introduced testimony that specified this as the reach of the river sought to be covered by the Board's application.

2. Protestants' argument that the application is one for Idaho Power Company and thus is for a private purpose is totally without foundation. The statement in paragraph 10 of the application which says "The requested instream flow is necessary for the successful operation of these facilities" refers to the necessity of fish reared in the facilities being able to pass up and down the river and to have adequate water for spawning and rearing young salmon and trout in the river. The purpose stated in the application is "to maintain trout and salmon spawning, migration, and rearing habitat. . ." paragraph 8(a)(5). These facilities can not operate efficiently unless there are minimum flows present in the river to meet these requirements.

The minimum stream flows sought are not for the benefit of Idaho Power Company but for the benefit of all the present and future citizens of the state of Idaho. The maintenance of the trout and salmon spawning, rearing and migration habitat in the Pahsimeroi River obviously is in the public and not the private interest.

3. Perhaps the Board's application would have been clearer if it had stated in Paragraph 10 that: "The Pahsimeroi hatchery operations provided approximately 85 percent of the (Idaho) harvest in the 1979 fall steelhead season." However, this point was clarified by testimony at the hearing that 85 percent of the steelhead harvested in Idaho during the 1979 fall steelhead season (October - December) originated from the Pahsimeroi River. Without the contribution from this hatchery, there would have been no

consumptive steelhead fishing in the fall of 1979 or spring of 1980 anywhere in the State. This testimony is unrebutted in the record. The hatchery does not produce 100 percent of all the steelhead coming from the Pahsimeroi River nor does this author recall any statement made to this effect in either written or oral testimony.

Protestants also are incorrect when they say that the record clearly establishes that if a minimum stream flow is granted, it will result in a total lack of production from this river. In fact, denial of the application may result in dewatering the stream and a complete loss of the resource.

Establishment of a minimum stream flow doesn't "lock up our resources" as claimed by protestants. The legislature clearly stated the purpose for the establishment of minimum stream flows in Section 42-1501, I.C. The wise use of our resources certainly does not foreclose future options as argued by the Protestants nor does the record indicate this to be the case. Finally, the record does not show that the establishment of a minimum stream flow ignores the ingenuity of man. If anything the reverse is true in that man can demonstrate his ingenuity in either maximizing the habitat available by stream improvement projects or in minimizing the loss of water.

4. The information added to the record aids in clarifying the actual flows that exist in the reach of the Pahsimeroi River under consideration. Protestants' contention that the State didn't supply information on water loss from the river reach is irrelevant since the testimony and records introduced by the parties clearly indicate that the Pahsimeroi River gains water in the reach under consideration. In fact, Protestants argued that the river gained so much water

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from ground water recharge in this reach that the flow data from the gauge station near the river's mouth was not representative of the flows further upstream. They agreed to leave the record open until August 1, 1980 in order that additional flow information could be obtained. Protestants reserved the right to object to the material in a brief or to depose the individuals supplying the information. There was no mention as to the manner in which the information was to be submitted. The protestants certainly can examine the validity of the augmented data by means of a deposition.

It should also be pointed out that it was the protestants who raised the issue that the flows recorded at the mouth were not representative of the flows available above. Yet protestants have introduced no factual data in support of their contention. It is the State who has undergone the time and expense in an attempt to cast additional light on this issue.

5. Fish and Game introduced the evidence on the expenditure of time, money and equipment not to bombard protestants but to demonstrate the importance of the resident trout, steelhead and salmon fisheries to the people of Idaho and the extent of the state's commitment to preserve and increase their populations. As pointed out above, the upstream point of the reach covered by the application is at the discharge outfall of the Idaho Power Company hatchery. Therefore, there is not a conflict with any additional water right that the hatchery may seek to obtain. If Idaho Power Company should seek an additional appropriation of 10 c.f.s., it must come from water that is not appropriated. Although that filing is irrelevant at this time, the evidence clearly indicates there is that much water available at the Dowton Lane Bridge. — Oh?

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Contrary to what protestants argue, a minimum stream flow is a nonconsumptive use. The water does not leave the stream other than by evaporation and perhaps by seepage. These losses are more than offset by the recharge of the stream by ground water within the reach covered by this application.

6. Protestants were given adequate notice as required by Section 42-1503, I.C. Notice was published in the appropriate newspaper on June 12 and 19, 1980. This was approximately one month prior to the hearing. In addition, all parties were given an additional 23 days after the hearing to augment the record. The material added to the record was subject to the right of objection by brief or cross-examination through the deposition process. Apparently, protestants have failed to avail themselves of the opportunity to augment the record.

Protestants argue they weren't told the ground rules of the hearing nor that it was a hearing of record and that the record could become the basis of an appeal. This argument is not tenable. The statutes spell out the manner in which a hearing of this nature shall be conducted. In addition, the statute provides that the Board or any person testifying at a hearing who is aggrieved by a decision of the Director shall have the right to have that decision reviewed by the courts pursuant to Section 42-1701A(4), I.C. Obviously if a court is going to review a decision based on the evidence obtained at a hearing, there must be a record.

In addition, protestants obtained legal counsel to represent them, made an appearance and had the opportunity not only to present their case but also to augment the record. They cannot now come forth and claim that they could have done a better job if they had more time. Anyone whether prepared or not can make that argument.

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It should be pointed out that the Department of Water Resources gave personal notice to Charles Kesl (7-7-80), watermaster of Water District 73, who subsequently attended the meeting and that a news release describing the hearing was published in the Challis Messenger on July 3, 1980.

Protestants' attempt to have the petition denied because the Department of Water Resources did not go beyond its statutory duty in providing notice, guidelines, etc. is not valid and certainly does not justify a denial of this application.

Protestants claim there are too many meetings in the Challis area for them to keep informed on what is going on. It should be pointed out that Fish and Game also has numerous meetings to attend and presentations to prepare. These meetings cover the entire State and not just a localized area.

Protestants are also incorrect when they contend that proponents have had months and years to prepare. Granted the State did have the opportunity to collect the data initially used in making the application. The application was submitted on December 19, 1979. The Fish and Game Department knew the application was going to be considered but did not know when a hearing would be held. In this regard, the Fish and Game Department received the same notice as the other parties.

7. The Fish and Game Department cannot agree with protestants' general statement that "maximum upstream use tends to be of benefit for all downstream purposes. . ." or that the record overwhelmingly supports this idea. First, maximum use would entail completely dewatering the stream. Obviously, this would interfere with downstream

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water rights. It is not clear what protestants mean by upstream? According to a reconnaissance survey of the Water Resources of the Pahsimeroi River Basin, Idaho. Water Information Bulletin No. 31, pages 42, 57, the peak of the ground water recharge in the lower reaches is in November which is at a time when no one is irrigating and there is a plethora of water available in the river.

It is a well known fact that the Pahsimeroi River and its tributaries lose most of their water to the alluvial fans and to the ground water system, as they leave the mountains and enter the valley. Reconnaisance Survey. supra, p. 9, 24, 33. It is also true that surface water irrigation contributes to the ground water recharge. Id. at 24, 33. However, there is no competent evidence in the record as to the relative contributions of these sources to the recharge of the river reach considered in this application.

Fish and Game contends that even under the present irrigation regime in the valley (where evidently many individuals are using water in excess of their rights early in the year), the flows present in the river are sufficient to provide for the minimum stream flows sought in this application. Thus if the surplus water was not used the flows available would be even higher.

8. Protestants' argument that granting the minimum stream flow sought in this application would result in an "interstate diversion" which is contrary to Section 42-1501, I.C., is ludicrous. First, there is no diversion of water from the Pahsimeroi River to another state. There is merely the natural flow of water down stream in its normal channel. Secondly, if this is an interstate diversion so would be protestants' use of the water since their uses result in a maximum discharge at the mouth of the Pahsimeroi

River. These waters would then by protestants' argument be "lost" into the Salmon River. Third, the water sought by the minimum stream flow is available for downstream users. There are irrigation diversions in the Salmon area and in some years the waters from the Pahsimeroi River have been extremely valuable in meeting these needs. In 1977, virtually all Salmon River waters were diverted between Challis and Ellis, Idaho (mouth of the Pahsimeroi). The flow of the Pahsimeroi was essential for providing irrigation water in the vicinity of Salmon.

In addition, waters returned to the Salmon River are valuable to the citizens of Idaho in that they increase the aquatic habitat in the Salmon River, thus providing for greater wildlife populations and for increased recreational opportunities for Idaho citizens. The waters travel through numerous miles of Idaho before they even reach the Snake River. During this passage, there are certainly additional opportunities for Idahoans to utilize the water.

The spurious nature of protestants' argument is further demonstrated by the fact that even if a small portion of the water reaches the Columbia, it is used in hydroelectric power generation which provides eletricity to the homes and businesses of Idaho citizens.

To extend protestants' argument, Idaho should dewater all streams before they leave the State. Protestants say they are interested in maintaining the fishery resource but their argument would undoubtedly lead to its absolute and final destruction.

The downstream users don't have it all their own way in regards to the fishery resource as claimed by protestants. Idaho has been involved in long drawn out litigation with Washington and Oregon to determine the number of anadromous

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fish to which Idaho is entitled. This litigation is close to settlement. The number of fish allocated to Idaho will be tied in with Idaho's contribution to the "run". If Idaho's contribution increases, then Idaho citizens will be entitled to more fish. This increased contribution can only result if there is adequate spawning, rearing and migration habitat available to the fish. It does not do any good for Idaho to spend millions of dollars on hatcheries, litigation etc. if there is no water for the fish.

It should also be pointed out that the United States and Canada are involved in negotiating a treaty to regulate ocean fishing of salmon. In its present form, this treaty should result in more fish entering the Columbia River and returning to their spawning beds in Idaho.

9. The granting of a minimum stream flow does not tie up the waters forever as protestants indicate. Fish and Game must admit that it could have this result. Perhaps in future years, the majority of Idahoans would rather have a run of salmon and steelhead than have a few more acres under the plow.

Protestants argue that the ingenuity of man can solve our problems and yet now argue that the "passage problem" around the dams probably can't be solved. We agree this is the major bottleneck but if man's ingenuity is successful in solving this problem, salmon runs would be increased dramtically.

Protestants also argue that no one knows what the future needs of food and fiber will be. This is true but how much will these future needs be satisfied by an additional 100-110 c.f.s. We would like to ask how much will all the people of Idaho lose if the Pahsimeroi River salmon, steelhead and trout populations are destroyed?

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10. Protestants claim that they had flow data but they did not feel that informal presentation of this opinion and material constitutes competent evidence. Yet, they presented exactly that kind of evidence at the hearing. Do they now claim their evidence is incompetent. Protestants knew this was a hearing of record and if they had evidence, they should have presented it at that time or during the time the record was open for augmentation.

Protestants were given notice as required by statute, retained counsel, were present, had an opportunity to present their case and had more than an adequate opportunity for cross-examination. They were also given 23 days to augment the record but failed to avail themselves of the opportunity. They cannot now come forward and claim they want another chance to do so.

The State has clearly told protestants what they want via the application and by the testimony presented in the record. Protestants cannot claim they are entitled to another hearing because they don't understand what the State wants. This is simply not a valid legal reason to have another hearing.

11. Protestants are incorrect in saying that the Director cannot reach the findings required by Section 42-1503, I.C. There is substantial competent evidence in the record to support a positive finding in regard to each issue.

a) The evidence indicates that there is unappropriated water in the river available for the minimum stream flow requested. This is true even though protestants introduced testimony that at some times of the year, several irrigators were using water in excess of their water rights. Protestants' claim that the minimum stream flow can't be granted because

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all claims have not been filed is not valid. First, this is pure speculation that claims will be filed. Secondly, the claims once they have been filed must be proven and the priority date established. A minimum stream flow is granted upon the condition that it does not interfere with vested water rights. Therefore, if a claim is filed and proven to have a prior date, the minimum stream flow would take the position of a junior appropriator in regard to that right.

The record does not show that a decrease in upstream use would have a negative impact on the downstream users. In fact, more water may be available for their use. At the present time, the exact contribution of irrigation water and natural seepage to the ground water recharge is unknown. The major impact of this recharge does not reach the lower reach of the river until November. Reconnaisance Survey, supra at 42.

b) The Board's application is supported by a large quantity of unrebutted evidence which demonstrates the expenditure of time, money and effort by the State in an attempt to preserve and increase the populations of summer chinook salmon, summer steelhead and resident trout species in the Pahsimeroi River. The unrebutted evidence indicates that this is a top quality trout fishery and one that is much sought after by the general public. A future increase in recreation demand will certainly be experienced when the operation of the Cyprus mine is commenced. There is also evidence in the record that indicates that the recreational use benefits the local economy.

The minimum stream flow sought is below the Idaho power facility. Therefore, any water sought for this facility would have to be from unappropriated water above the facility. As mentioned earlier the purpose for the minimum stream flow

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is to "maintain trout and salmon spawning, migration, and rearing habitat" within the reach of the river. Idaho Power Company is not benefiting -- the many thousand owners of the salmon and steelhead resource as well as all the commercial activities which derive support from fishermen and fish are the beneficiaries. Idaho Power Company pays the bills and Fish and Game operate the facilities as agents for the 500,000 license buying fishermen. Thus, the minimum stream flow sought is clearly in the public interest and if approved, will be a future benefit to all citizens of the State. If the Pahsimeroi River summer chinook, steelhead and trout populations are lost then it will be all the residents of Idaho who will be the losers.

c) The evidence in the record clearly indicates that the minimum stream flows sought are necessary for the preservation of fish and wildlife habitat, aquatic life and recreation. The recommended spawning flows are designated at 80 percent of the total available spawning habitat at each study section and incubation flows are two-thirds of the recommended spawning flows. Fish and Game Exhibit #9 at 3. The testimony indicated that steelhead spawn in April and May in the Pahsimeroi River and that a flow of 109 c.f.s. is essential for spawning. Id at 44. Summer chinook spawn in August through September and a flow of 127 c.f.s. is needed. Id. at 45. The spawning curve for rainbow trout, the main resident trout species, indicates a flow of 78 c.f.s. is needed. Id at 43. The rearing flow curve indicates that about 78 c.f.s. are required for rearing young fish. Id at 42. As was pointed out by Fish and Game in their testimony, lower flows result in a rapid decline in the available spawning and rearing habitat and a resultant population decrease.

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Protestants continue to drag the red herring through their argument that the flows sought are to protect the fish rearing facilities. As has been pointed out above, the upper end of the reach is below the upper Idaho Power Company rearing facility and the lower facility is located where protestants admit there is a surplus of water. More importantly these fish rearing facilities have water right priority dates that are senior to this application and would gain no protection by the establishment of a minimum stream flow.

d) The testimony presented by Fish and Game shows that these flows are not the ideal or most desirable flows. This testimony pointed out that the ideal flow would be "bank full" or approximately 140 c.f.s. throughout the year. This flow would result in 100 percent of the spawning and rearing habitat being available to the fish. The flows sought in the application are considerably lower than the ideal flow. If the river flows are decreased much below those sought in the application there will be a rapid decline in the available spawning and rearing habitat. Fish and Game Exhibit No. 9 at 12, 42, 43, 44, 45.

Protestants claim the computer was not present to be cross-examined. This we cannot deny. However, protestants had the opportunity to question the witnesses for Fish and Game concerning the computer program and the data collection and analysis techniques. Protestants failed to avail themselves of this right and can't now come forth and claim they did not have the opportunity to do so. Numerous exhibits were entered into the record without objection and protestants cannot now raise objections to their admission.

Protestants also object to the flow measurements which were augmented into the record. If they wish to

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examine Mr. Cochnauer in regard to these data, they have reserved the right to do so by deposition. These data are actual measurements collected at various locations on the reach under consideration and are not opinion. It should be pointed out that protestants at the hearing favored the collection of additional flow measurements and that protestants do not claim that the data collected is incorrect.

e) The minimum stream flows sought by the board are capable of being maintained. Protestants claim that since the records for flows at the Dowton Lane Bridge indicate that 127 c.f.s. is not available in August, then the entire application should be denied. Protestants do not assert that there is not adequate water in the stream at lower points nor at other times of the year.

If we examine the flow measurements contained in Reconnaisance Survey, supra at 57, after adjusting them in the manner described by Bill Ondrechen, see Tuthill letter July 28, 1980, we can see that adequate flows are available just above the mouth of the Pahsimeroi River (Section 9) for the minimum stream flows sought in the application. The flow data for Section 8, at the Burstedt Lane Bridge, also indicate that water is available except for a brief time last part of May and during the middle part of August to justify the flows sought. The August flow is only 7 c.f.s. below the flow sought. As is the case with other junior rights if the available flow is not present during these time periods, the minimum stream flow would have to yield to the senior appropriator.

A further analysis of the data indicates that the flow measurements at the Burstedt Lane Bridge for the period May 27, 1971 - September 20, 1971 are 75.2 percent of those recorded near the mouth of the River (Section 9). This

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indicates a closer correlation in flows than the protestants' opinion testimony indicated to be the case.

These data appear to indicate that at some point above the Burstedt Lane Bridge and below the Dowton Lane Bridge, the flows may not be available to support all of the flows sought in the application. Thus, it may be necessary to collect additional data to determine where that point is located. Section 42-1503(e), I.C. gives the Director the discretion to approve the application in whole or in part or to condition the application on the collection of additional data.

The Idaho Department of Fish and Game feels that there is adequate data in the record for the Director to reach a favorable decision on the Board's application.

DATED: August 25, 1980

Respectfully submitted,

Stephen Goddard
Stephen V. Goddard
Deputy Attorney General
Idaho Dept. of Fish and Game

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 25 day of August, 1980, a true and correct copy of the above and foregoing instrument was mailed, postage prepaid, to:

James R. Bennetts
Attorney at Law
P. O. Box 36
Challis, Idaho 83226

Stephen Goddard
Stephen V. Goddard

August 26, 1980

Mr. Reed Hansen
Route #5 Box 213
Idaho Falls, Idaho 83401

Dear Reed:

Enclosed is a copy of the reply brief from the Department of Fish and Game in support of application No. 73-7045.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO)
)
COUNTY OF ADA)

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 27th day of August, 1980, true and correct copies of the reply brief of the Idaho Department of Fish and Game relating to application No. 73-7045 were mailed postage prepaid in the United States Mail to:

Mr. Reed Hansen
Route #5 Box 213
Idaho Falls, Idaho 83401

Jackie Gibbons

Jackie Gibbons

August 18, 1980

Mr. Joe V. Higbee
P. O. Box 33
Ellis, Idaho 83235

Dear Mr. Higbee:

We have investigated the copies of your claims attached to your letter of July 30, 1980. It appears that when the Department first received these claims, they were dated and reviewed, but were returned to you for additional information (see attached letter).

To properly claim your water rights you must return the claims with the additional information specified in the letter. Our eastern regional office (1515 Lincoln Road, Idaho Falls, 83401 Tel. 523-7186) will be happy to assist you in this regard.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Ellis, Idaho
July 30, 1980

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AUG - 4 - 1980
Department of Water Resources

Dept of Water Resources
Boisie, Idaho
Mr David R. Tuthill Jr.

Dear Sir:

Enclosed is a copy of our claims to Water rights and Permits for pump & sprinkling system out of Pahsimeroi River, as requested by your letter date July 23, 1980.

these filings are other than the Ellis Ditch filings.

thank you

Joel Hughes

August 13, 1980

Mr. James R. Bennetts Attorney at Law
P. O. Box 36
Challis, Idaho 83226

RE: Minimum Stream Flow Application No. 73-7045, Pahsimeroi River

Dear Mr. Bennetts:

Enclosed please find a copy of a statement by Kent Foster of the firm Holden, Kidwell, Hahn & Crapo representing the Upper Snake River Water Users Protective Union.

Also enclosed is a copy of some miscellaneous measurements made recently by the Idaho Department of Fish & Game.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

c.c. Reed Hansen
Idaho Department of Fish & Game

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO)
)
COUNTY OF ADA)
)

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 14th day of August, 1980, true and correct copies of measurements submitted August 1, 1980, by the Idaho Department of Fish & Game and a statement by Kent W. Foster were mailed postage prepaid by United States mail to:

James R. Bennetts Attorney at Law
P. O. Box 36
Challis, Idaho 83226

Mr. Reed Hansen
Route #5 Box 213
Idaho Falls, Idaho 83401

Jackie Gibbons

Jackie Gibbons

August 13, 1980

Mr. Reed Hansen
Route #5 Box 213
Idaho Falls, Idaho 83401

RE: Minimum Stream Flow Application No. 73-7045, Pahsimeroi River

Dear Reed:

Enclosed please find a copy of a statement by Kent Foster of the firm Holden, Kidwell, Hahn & Crapo representing the Upper Snake River Water Users Protective Union.

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Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

c.c. Idaho Department of Fish & Game
James R. Bennetts Attorney at Law

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO)
)
COUNTY OF ADA)
)

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 14th day of August, 1980, true and correct copies of measurements submitted August 1, 1980, by the Idaho Department of Fish & Game and a statement by Kent W. Foster were mailed, by prepaid postage in United States mail to:

James R. Bennetts Attorney at Law
P. O. Box 36
Challis, Idaho 83226

Mr. Reed Hansen
Route #5 Box 213
Idaho Falls, Idaho 83401

Jackie Gibbons

Jackie Gibbons

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August 13, 1980

Attn: Steve Goddard

Idaho Department of Fish & Game
Statehouse Mail
Boise, Idaho 83720

RE: Minimum Stream Flow Application No. 73-7045, Pahsimeroi River

Dear Sir:

Enclosed please find a copy of a statement by Kent Foster of the firm Holden, Kidwell, Hahn & Crapo representing the Upper Snake River Water Users Protective Union.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosures

c.c. Reed Hansen
James R. Bennetts Attorney at Law

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO)
)
COUNTY OF ADA)

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 14th day of August, 1980, a true and correct copy of a statement by Kent W. Foster was mailed by prepaid postage in United States mail to:

Idaho Department of Fish & Game
Statehouse Mail
Boise, Idaho 83720

Jackie Gibbons
Jackie Gibbons

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AUG 7 1980
Department of Water Resources

LAW OFFICES
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IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 129
IDAHO FALLS, IDAHO 83401

TELEPHONE 523-0620
AREA CODE 208

WILLIAM S. HOLDEN
R. VERN KIDWELL
FRED J. HAHN
TERRY L. CRAPO
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN

CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
RANDALL K. BARTON
MICHAEL D. CRAPO

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)

13-7045

August 5, 1980

Director
Department of Water Resources
Statehouse
Boise, Idaho 83720

Gentlemen:

We are enclosing with this letter a Statement which has been prepared and submitted on behalf of the Upper Snake River Water Users Protective Union, on whose behalf a general appearance was entered by Mr. James Bennetts of Challis, Idaho at the hearing held on July 9th. In a recent telephone conversation, we were advised by Mr. Carlsen of the Idaho Falls Regional Office that the time for submitting such statements had been extended to August 10, 1980.

Yours very truly,

Kent W. Foster

Kent W. Foster

KWF:jt

Encl.

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TO: Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

STATEMENT

RE: Application No. 73-7045 of the Idaho Water Resource Board for a minimum stream flow on the Pahsimeroi River.

This Statement is submitted on behalf of the Upper Snake River Water Users Protective Union. As the Director is already aware, the Protective Union is an informal organization of more than 50 canal companies and irrigation districts located and operating in the Upper Snake River Valley in Southwestern Idaho. All of the individual canal company and irrigation district members of the Protective Union divert and use water for irrigation purposes from the Snake River.

Although the companies and districts which comprise the Protective Union do not operate in the Pahsimeroi Valley or use water from the Pahsimeroi River and its tributaries, the Protective Union has for some time felt a vital interest in the enactment of the recent minimum stream flow law and the potential impact of that legislation as it may be implemented throughout the state, particularly in areas where irrigated agriculture is economically important.

The Protective Union Board of Directors had no notice or knowledge of the pending application of the Idaho Water Resource Board for a minimum stream flow on the Pahsimeroi River. Members of the Board of Directors of the Protective Union only learned through friends that a hearing was scheduled on the application of the Water Resource Board on July 9th in Challis, a matter of hours before the time for the hearing. There was no opportunity to prepare and attend the hearing to participate and present evidence. The Protective Union entered its appearance through

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Mr. James R. Bennetts, an attorney from Challis who was kind enough to appear on behalf of the Protective Union and request leave for the Protective Union to file a Statement.

We have now had an opportunity to review the application of the Water Resource Board, but since there was no opportunity to attend the hearing, we are relying for our knowledge of what transpired there, on reports given to us by Mr. Bennetts who was present.

The Protective Union is very concerned about the Minimum Stream Flow Act itself, and how it is applied. Particularly, we are concerned about the processing of this particular application and what affect these proceedings may have as precedent. We urge the director to deny the present application, or at least to defer a decision until further study and investigation can be completed and a new hearing conducted with better notice and opportunity for the public in the affected area as well as other interested groups and persons throughout the state to appear and be fully heard. In light of the manner in which the filing of this application and the giving of notice was handled, and the nature and extent of material which was introduced at the hearing, if the application were to be approved by the director at this point, it would be detrimental to Idaho Water law in general and irrigated agriculture in Idaho in particular.

At the outset, it would be fair for us to state that the Protective Union was opposed to the enactment of the minimum stream flow legislation in its present form from the outset. While no one can seriously challenge the lofty and laudable policies expressed in the act, it appeared to the Protective Union to be so broad and so general, particularly in its implementing provisions, that the Protective Union was concerned

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about the great potential for general abuse and even more especially about the potential for a detrimental impact upon irrigated agriculture. From what we have been able to learn with respect to this particular application, and from what has been reported to us concerning the hearing, we are convinced that the fears of the Protective Union are being realized. In spite of the assurances that were given by many individual legislators at the time of the passage of the minimum stream flow legislation, it appears that the act is being implemented, in this case, contrary to the legislative intent, in the very manner which was feared by the Protective Union.

We do not know whether the application of the Idaho Water Resource Board was made on the Board's own motion or pursuant to a request received from some other person, association or governmental entity under Idaho Code §42-1504. The application seeks to appropriate an instream flow from a point on the Pahsimeori River upstream some seven miles, apparently for the preservation of a certain fish habitat.

We suppose that no one in his right mind could find anything wrong with protection of the Pahsimeroi River and its environment against loss of water supply to preserve flows required for protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation, transportation, or water quality, or the protection of such waters from interstate diversion to other states or by the Federal Government for use outside the boundaries of the State of Idaho. To do so would be almost like opposing virtue, motherhood, and the flag. However, we do not accept that somehow all of these great and wonderful benefits will automatically come to pass just because the legislature has passed an act and because the

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Water Resource Board has filed an application. Our analysis and study of the minimum stream flow legislation has convinced us that if the minimum stream flow legislation is implemented loosely, without great caution, or if applications are filed unwisely or prematurely, not only will the citizens of the State of Idaho not enjoy the lofty goals expressed in the policies of the act, but rather may experience serious detriment.

As we understood it, the legislature contemplated that this act would not be implemented unwisely. We were assured that the Water Resource Board would exercise great caution and wisdom in making applications regardless of whether made on its own motion or pursuant to a request from some other source, that the Director of the Department of Water Resources would be thorough in the gathering of data and information for approving any such application, and that the public, particularly those members of the public who may be directly affected by any given application would be given full opportunity to be heard and to participate in the formation of any policy decisions resulting in the imposition of the minimum stream flow in any stream, especially where that stream is already extensively used for agricultural purposes.

Laying aside our dissatisfaction with the statute itself, since that is irrelevant to this particular proceeding, we nevertheless wish to suggest by this Statement that this particular application was filed prematurely and unwisely, that inadequate opportunity has been furnished the interested public, particularly those who reside in the Pahsimeori Valley and would be most directly affected by any minimum stream flow imposed upon the Pahsimeroi River, to be fully advised by the proponents of the particular minimum stream flow application,

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to fully consider the proposal and its potential consequences and to be heard and participate in the ultimate decision, and that there has been an almost total lack of evidence presented to support or justify the grant of any minimum stream flow sought by this particular application.

It is clear from Idaho Code §42-1503 that the Act at least contemplates and requires an objective finding based upon empirical and substantial evidence as to a specific list of important information. The burden of producing such evidence would be upon the Water Resource Board as the applicant. The material attached to the application, much of which is set out under headings containing the word "Evidence", does not constitute legal evidence. It consists only of undocumented, unsigned and unsupported comments.

From the report we have had of the hearing, we understand the formal record to be woefully deficient of factual data properly presented to support the findings which are required. We suggest that as a matter of policy, the Idaho Water Resource Board ought to exercise great caution and judgment in the filing of every application for a minimum stream flow, but especially, when a stream is used extensively to sustain an agricultural economy. In order to preserve its credibility, as a minimum, it seems to us that the Board ought to see, hear and fully consider the evidence which will be presented at a hearing and be satisfied that the evidence is complete, detailed, and substantial before the application is ever filed. In this case, it appears to us at this point in time that the application was premature and there appears to be a serious lack of previous preparation and consideration.

For instance, the first finding that is required under

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§42-1503 is that the proposed minimum flow will not interfere with any prior "vested water right, permit, or water right application". What evidence was presented by the proponents of the minimum stream flow application to even show what the list of vested water rights actually is on the Pahsimeroi River and its tributaries? While there is no specific definition in the Act of "vested water right", we would take it to include not only water rights established by decree or license, but under §42-1502(g) it appears that it would also include unrecorded rights established by diversion and application to beneficial use. The Department is well aware that there are numerous water rights in the Pahsimeroi Valley which were validly established by this method and which have not yet resulted in the entry of any decree. Although the program for filing claims, which provides for the making of a record of the existence of these rights, has been under way for some time, the statutory deadline is not until June 30, 1983. Until some effort is made to determine what vested water rights exist in the Pahsimeroi Valley, how can a finding be made that the proposed minimum stream flow appropriation will not interfere with any vested water right, etc., unless some effort is made to show what those rights are?

We are growing quite weary of the usual response to this problem, which is to ask the question "how can anyone possibly object to an application for minimum stream flow since the Act itself says that it cannot interfere with any prior rights?". That type of question is a glossing-over of the real problems and represents a very shallow, naive type of thinking. First, irrigators have learned by experience that friction between the water users on any given stream seems to increase geometrically with the number of water users. Usually, the larger the size of any additional right, the greater the problem; and if the

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nature of the use of such a new right is not related to the agricultural economy of the area, problems are greater still. Obviously this is impossible to prove in advance; we can only predict the future based upon our past experience. The amount of water sought to be appropriated by this particular application is not insignificant. In addition, an appropriation for a minimum stream flow for most of the purposes listed in the Act contains an inherent conflict with the use of the waters of the same stream for irrigation purposes. This is a difficult concept to articulate, because again, in a sense, we are anticipating the future. Even though the instream appropriation for minimum flows does not require or contemplate physical structures for diversion of the water, we cannot conceive that interested governmental agencies will not be looking after their interests. The establishment of a minimum stream flow right will inevitably bring about involvement of various governmental personnel in keeping track of river flows as they relate to the specific purposes for which a minimum flow appropriation may be made. While the Act of the State Legislature contemplates the establishment by law of a minimum stream flow, nature does not guarantee any such thing, hence conflict is virtually inevitable. When water is scarce it will be difficult for governmental agencies to watch fish and wildlife habitat deteriorate or suffer serious damage. Governmental agencies seldom experience the stringent limitations on time and resources for resort to litigation to which irrigators are subject. It would probably be an understatement to say that most irrigators are uncomfortable with the prospect of having a governmental agency as the appropriator of a very large water right with a nature of use which is inherently in conflict with

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agricultural uses on the same stream.

Secondly, and perhaps more importantly, a decision to establish a minimum stream flow on the Pahsimeroi River is essentially a decision that there will be no future development of that resource for any other purposes in the future. It appears that there may be some confusion on this point. We have heard it expressed before that the Idaho Water Resource Board has a responsibility to tie up various water rights through minimum stream flow appropriations so that when it is determined in the future that additional development of agricultural land is needed or power is needed, or development for fish propagation or other purposes is needed, the water will be available. That just is not what the Act contemplates. The Act contemplates a minimum stream flow appropriation for certain listed beneficial uses and no others. For instance, some of the attachments to the application suggest that Idaho Power Company or someone else may desire in the future to appropriate additional water for increasing the propagation of Steelhead. If this application were granted, there may be no unappropriated water available for another appropriation for such purpose. Even if it wished to do so, the Water Resource Board could not assign its right to the Idaho Power Company for a different use than those listed under this Act. The Supreme Court recently said in the case of Beker Industries, Inc. vs. Georgetown Irrigation District, 27 ICR 483 (1980) that there is no procedure under Idaho law for changing the nature of the use of a water right.

We suggest that if it is the intention of the Idaho Water Resource Board to make a policy decision that there shall be no further development of any sort in the Pahsimeroi Valley, that is a decision of substantial import and as §52-1503 suggests,

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there ought to be a specific finding that it is in the public interest. Again, there should be some sort of objective or empirical evidence introduced to show that public interest really favors such a policy. The residents of the Pahsimeroi Valley are certainly members of the public and have perhaps the greatest and most direct interest. What effort has been made to determine the nature and extent of that interest and what showing has been made that such interest really favors the proposed appropriation?

Next, the Act requires an objective finding, again based upon empirical and substantial evidence, that in this particular case the proposed minimum stream flow is necessary for the specific purpose for which the appropriation is sought. The list of beneficial uses in the Act is not in our opinion to be treated just as one, nice, sweet conglomerate for purposes of this finding of necessity. We view each item in the list of beneficial uses to be a separate and individual use, requiring its own separate finding that its preservation can only be protected by establishment of the proposed minimum flow. In other words, it is certainly conceivable that a minimum flow might be necessary on a particular stream for preservation of a specific fish and wildlife habitat, but the same stream might have little or no navigation or transportation value.

With respect to each proposed use, one of the first questions to be asked should be: Is there any existing "beneficial use" which can be preserved? At the same time it must be kept in mind that the Act is not designed as a means to create or develop or to enhance or to replace one of the listed beneficial uses, but rather to protect one or more of such beneficial uses by preserving it. The Act assumes that there is already something in existence which can be and ought to be preserved,

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and further, that the proposed appropriation is necessary to the preservation. The application is a little confusing as to the beneficial use for which the instream flow is sought. Nowhere do we see any of the statutory beneficial uses mentioned, at least in the language of the statute. Where the statute gives a specific list of uses, which are not mentioned in the Idaho Constitution or other statutes, and where there is as yet no body or case law to guide, it is in our opinion, less than proper for the Water Resources Board to be so vague and loose about such an important element. We suppose that the application might be taken as seeking a minimum flow to preserve an existing "fish habitat".

While there is undoubtedly some sort of fish habitat in the segment of the Pahsimeori River which is the subject of the application, it seems that evidence should be essential as to its nature and extent, and specifically why and how the proposed minimum stream flow is necessary to its preservation (not creation, enhancement or replacement). Indeed, in order to show necessity, there ought to be evidence that such fish habitat is unlikely to be preserved in the absence of the proposed minimum flow appropriation. If there is an existing fish habitat as we suspect which has existed for some years in essentially the same general condition, then we are doubtful that this burden can be met. We think there must be some showing that the present fish habitat is deteriorating or at least is very likely to deteriorate in the immediate future unless specific minimum stream flows which can be maintained, are in fact maintained.

The report we received is that the formal record of the hearing is almost totally devoid of evidence which would tend to show any necessity for appropriation of a minimum stream flow to preserve an existing fish habitat.

Other questions are raised by this application which cause concern. Is this really an application for a minimum stream flow to preserve an existing fish habitat and hence a specific beneficial use contemplated under the act, or is this an attempt to use the act indirectly to give the blessing of the state to a different use, fish propagation, which is not a use contemplated under the act? Normally, one would think of the words of the act, "preservation of fish and wildlife habitat" as relating to a natural phenomenon rather than a man-made fish rearing activity, albeit administered by the State Fish and Game Department. One would expect the application to seek or at least mention the preservation of wildlife habitat as well. After all, the act uses the word "and" (fish and wildlife habitat), not "or". Whether this fish rearing activity is really in the public, as opposed to a private, interest is also questionable here. As the application states, the fish are reared to replace fish lost because of existing hydropower facilities owned by Idaho Power. As we understand it, Idaho Power, under an arrangement with the state finances this and other fish hatching and rearing facilities. This is very much like a private, as opposed to a public, responsibility, even though the public may have an interest in seeing that it is done. It seems to us that Idaho Power may have a right under existing law to appropriate water for fish hatching and rearing and to contract with the State Fish and Game Department for operation of the facility. Perhaps this has already been accomplished by virtue of long use; if so, how necessary is an appropriation under the new Act which was really not designed for such a purpose.

One of the other beneficial uses specified by the legislature in §42-1501 as justifying appropriation of a minimum stream flow, is the protection of such waters from interstate

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diversion to other states or by the federal government for use outside the boundaries of the State of Idaho, although the application in this case does not state that this is one of the purposes for which the minimum stream flow is sought. We will assume, because the legislature has so declared, that there may conceivably be certain stretches of certain streams within the State of Idaho where a minimum stream flow appropriation would accomplish this purpose. However, the Pahsimeroi River is not one. To the extent that minimum stream flows are enforced on the Pahsimeroi River, it can do nothing but augment flows of water from Idaho into the states of Washington and Oregon, who have, of course, in the past demanded that Idaho provide more water at our border for use in those states. If those states were aware that Idaho was augmenting flows of water into Washington and Oregon under the guise of minimum stream flow legislation for the purpose of protecting such waters from interstate diversion to other states, they would certainly have to feel something akin to glee.

The last finding the Director is required to make is that the proposed minimum stream flow is capable of being maintained as evidenced by records. As we understand it, there was no introduction or presentation of records at the hearing which would tend to show any such thing. In fact, the only records or evidence presented about stream flows tends to support what the irrigators have thought all along; that is, that the best way to preserve minimum stream flows on the Pahsimeori River is to encourage heavy diversions of water in the upper reaches of the valley and on the bench areas, particularly during the Spring run-off, when there is frequently more water than necessary to satisfy all requirements anyway. The Protective Union has always

felt that minimum stream flows ought to be tied to storage. The only significant storage available in the Pahsimeroi Valley would be underground storage which occurs as a natural result of the practice of heavy irrigation diversions during the Spring run-off, which we understand to be a generally accepted and encouraged practice by the agricultural water users within the valley. We understand that it is a quite commonly accepted belief among residents of the valley that the benefit derived from this practice is the recharge of the Pahsimeori River from this ground water storage throughout each irrigation season and that the likelihood that there will be adequate water in the river in the late Summer and Fall is much greater if this practice is followed. Of course most irrigators desire fairly high flows as opposed to minimum flows and the natural tendancy is to take steps, when possible, to increase the flows of water within a stream which is used heavily for supplying water for agricultural use. We know of no studies which have been performed, or at least which were referred to at the hearing, which have attempted to describe and define this phenomenon in the Pahsimeroi Valley. It seems to us that this sort of information would be very important, not only in the determination whether the minimum flow proposed by this application is capable of being maintained, but also to the broader question of whether there is any need, or even desirability, for the imposition of a minimum flow on the Pahsimeroi River, or for that matter, other rivers and streams in the State of Idaho with similar features.

As a final comment, we understand the director to have prepared the notice and cause it to be published twice in compliance with the strict requirements of the statute. However, the statute, in §42-1503 also provides that "the director may also

give other notice of the proposed appropriation in such manner and to such persons or organizations as he may determine." As we understand it, this application was filed in December, but that no contact was made with any of the interested water users in the Pahsimeroi Valley or any other interested water users around the state indicating any intention to file the application or that it had been done. On top of this, it appears that notice was given during what would possibly be the most inopportune time of the entire year for residents of that valley and other interested groups who are involved in agriculture. We are certain that neither the applicant nor the director had the intention of being surrepticious about this particular application. However, if such had been the design, it would be hard to conceive of a better plan.

We suggest that the director and the Idaho Water Resource Board conduct the necessary examination and reconsideration of this matter so as to be able to make an intelligent determination whether a minimum flow application is even advisable in this case. The Idaho Water Resource Board may wish to withdraw the application, but assuming that the board determines there is a substantial need for a minimum stream flow on the Pahsimeroi River, and the policies favoring the establishment of such, clearly outweigh the other important policies, then we suggest that much more extensive notice be given and opportunity provided for the public, particularly the public in the affected area, to review the conclusions of the board and the data and information upon which it is based and then prepare adequately for a formal hearing.

Respectfully submitted this 6 day of August, 1980.

JAMES R. BENNETTS
P.O. Box 36
Challis, Idaho

and

HOLDEN, KIDWELL, HAHN & CRAPO
Attorneys for the Upper Snake River
Water Users Protective Union

By: Kent W. Foster
Kent W. Foster

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STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

DAVID H. LEROY
ATTORNEY GENERAL
JOHN C. VEHLOW
STEPHEN V. GODDARD
DEPUTY ATTORNEYS GENERAL
IDAHO DEPARTMENT OF FISH AND GAME

600 S. WALNUT ST.
P.O. BOX 25
BOISE, IDAHO 83707
(208) 334-3715

August 1, 1980

ORT

Mr. Norman Young, Administrator
Resources Administration Division
Department of Water Resources
450 W. State
Boise, ID

RE: Augmentation of Pahsimeroi River Minimum Stream Flow Hearing Record

Dear Norm:

Enclosed please find copies of the stream measurement data collected this July by Department personnel. Would you please include these data in the record for the Pahsimeroi River minimum stream flow hearing. The computer analysis of these data has not been completed as of this date. The Department would like to request permission to augment the record with the analysis when it is completed.

Thank you for your consideration in this matter.

Sincerely,

Steve Goddard

Stephen V. Goddard
Deputy Attorney General
Idaho Dept. of Fish & Game

SVG:llb
encl.
cc: Jim Bennetts
L. L. Anderson

IDAHO DEPARTMENT OF FISH AND GAME

STREAM FLOW INVESTIGATIONS

STREAM PAHSIMEROI R. TRANSECT NO. AT END OF POOLS OF UPPER HATCHERY DATE 7/29/80

Time 1045 Gage Sta. _____ Flow _____

Cross section width _____ Elevation _____ (Ref) _____

Elevation (HW) _____ Distance from US X-section _____

Meter Time _____ Vegetation _____

Estimated time per Transect _____

Man-hours _____

DIST	Cm/Ft DEPTH	VELOCITY .2	.6	.8	SUBS
14	WATERS EDGE				
15	4.13		0.1		.02
16	7.23		0.1		.02
17	9.30		40/46	1.91	.57
18	9.30		50/40	2.72	.82
19	10.33		50/49	2.24	.74
20	11.36		80/66	2.91	1.05
21	16.52		50/41	2.81	1.39
22	19.62		50/41	3.61	1.66
23	21.69		60/40	3.91	2.26
24	20.66		60/41	3.19	2.11
25	23.76		80/58	3.49	2.51

DIST	DEPTH	VELOCITY .2	.6	.8	SUBS
26	21.69		80/48	3.63	2.50
27	20.66		60/41	3.19	2.11
28	25.82		80/50	3.49	2.86
29	29.95		60/40	3.27	3.11
30	30.98		50/40	2.73	2.67
31	35.115		80/52	3.35	3.85
32	37.121		60/42	3.12	3.78
33	44.141		60/46	2.85	4.10
34	38.129		80/45	3.87	4.84
35	34.112		60/46	2.85	3.19
36	37.131		80/43	4.05	4.90
37	38.125		80/40	4.35	5.44
38	33.108		100/49	4.43	4.78
39	22.72		80/45	3.87	2.79
40	20.66		80/47	3.71	2.45
41	16.52		30/45	1.17	.76
42	13.43		50/43	2.55	1.10
44 WL.					

C8.38cfs

Tim Cochnauer

IDAHO DEPARTMENT OF FISH AND GAME

STREAM-FLOW INVESTIGATIONS

STREAM PANHANDLE RIVER TRANSECT NO 20yds U.S. of BURSTEDT BRIDGE DATE 7/29/80

Time 1215 Gage Sta. _____ Flow _____

Cross section width 50+ Elevation _____ (Ref) _____

Elevation (HW) _____ Distance from US X-section _____

Meter Time _____ Vegetation _____

Estimated time per Transect _____

Man-hours _____

ft DIST	cm/ft DEPTH	VELOCITY fps .2	.6	.8	SUBS
L.E 18.5	30 .98		50/41		.65
19	42 1.36		40/42	2.09	2.13
20	45 1.48		40/43	2.09	4.53
22	42 1.52		40/47	1.97	5.16
24	37 1.21		40/45	1.95	4.72
26	32 1.05		40/45	1.95	4.10
28	27 .89		40/45	1.95	3.47
30	30 .98		40/41	2.14	4.19
32	29 .95		40/43	2.09	3.88
34	30 .98		40/41	2.14	4.19
36	32 1.05		40/47	1.87	3.93
38	31 1.02		40/41	2.14	4.37
40	30 .98		40/45	1.95	3.82
42	31 1.02		40/48	1.83	3.73
44	28 .92		40/44	2.00	3.68
46	29 .95		40/43	2.09	3.88
48	27 .89		40/41	2.14	3.81
50	30 .98		40/48	1.83	3.59

ft DIST	cm/ft DEPTH	VELOCITY fps .2	.6	.8	SUBS
52	28 .92		50/47	2.33	4.29
54	30 .98		40/50	1.76	3.45
56	26 .85		30/40	1.65	2.81
58	32 1.05		40/45	1.95	4.10
60	35 1.15		40/41	2.14	4.92
62	38 1.25		30/40	1.65	4.13
64	34 1.12		40/40	2.19	4.91
66	19 .62		0.1		.22
68.5	WATERS EDGE				

96.69 cfs

IDAHO DEPARTMENT OF FISH AND GAME

STREAM FLOW INVESTIGATIONS

STREAM Panhandle Creek TRANSECT NO. 10 1.0 S. of weir DATE 7/22/90

Time 0845 Gage Sta. _____ Flow _____

Cross section width _____ Elevation _____ (Ref) _____

Elevation (HW) _____ Distance from US X-section _____

Meter Time 1 min 15 sec Vegetation _____

Estimated time per Transect _____

Man-hours _____

DIST	ft / cm DEPTH	VELOCITY fps .2	.6	.8	SUBS
WS WE 5	WE				
6	11 .36		20/51	.87	.47
7	15 .49		25/47	1.18	.58
8	26 .85		25/45	1.29	1.10
9	32 1.05		20/40	1.11	1.11
10	41 1.35		25/48	1.15	1.5
11	48 1.57		30/42	1.57	2.37
12	50 1.64		40/50	1.76	3.19
13	56 1.84		30/40	1.65	3.04
14	61 2.00		40/52	1.69	3.46
15	68 2.23		40/45	1.95	4.35
16	72 2.36		50/47	2.33	5.50
17	77 2.53	40/40	2.19 / 2.13	50/45	2.21
18	75 2.46		50/	2.60	
19	83 2.72	50/46	2.36 / 2.28	50/45	.33
20	83 2.72	40/47	1.81 / 1.61	30/41	1.11
21	2.29	40/41	2.14 / 1.0		1.63
22	2.14	50/45	2.13 / 1.15	25/48	1.72

DIST	ft / cm DEPTH	VELOCITY fps .2	.6	.8	SUBS
23	87 2.85	50/45	2.43 / 1.23	25/45	1.77
24	88 2.89	50/45	2.43 / 1.32	25/40	1.91
25	86 2.82	40/40	2.19 / 1.44	30/46	1.82
26	89 2.92	40/41	2.14 / 1.47	20/46	1.55
27	87 2.85	50/46	2.38 / 1.23	25/45	1.81
28	94 3.08	40/42	2.09 / 1.28	20/41	1.58
29	91 3.18	40/40	2.13 / 1.15	25/48	1.67
30	100 3.28	50/40	2.73 / 1.57	10/43	.62
31	107 3.51	40/40	2.11 / 1.60	7/45	1.28
32	91 2.98	50/44	2.33 / 1.18	25/47	1.76
33	93 3.05	50/42	3.12 / 1.49	15/52	1.88
34	84 2.76	50/43	2.55 / 1.57	10/50	1.50
35	60 1.97		5/40	.294	
36	40 1.31		0.1		
39 WE					

LEFT BANK

5.84 6.10 6.34 4.73 4.53 4.73

5.04 5.52 5.13 4.53 5.16 4.85 5.31 5.3 4.4 5.21 5.5 4.14 .58 .5

T Cochran

120.5

August 12, 1980

Mr. Reed Hansen
Route #5 Box 213
Idaho Falls, Idaho 83401

Dear Mr. Hansen:

Enclosed is some additional material concerning the minimum stream flow Application No. 73-7045, Pahsimeroi River. (Copy of Jim Bennetts brief)

Respectfully,

Jackie Gibbons
Receptionist, Water Allocation Section

Enclosure

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
(208) 879-4488

August 7, 1980

RECEIVED
AUG 11 1980
Department of Water Resources

David R. Tuthill Jr., P.E.
Supervisor, Water Allocation Section
State of Idaho
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Minimum Stream Flow Application #73-7045, Pahsimeroi River

Dear Mr. Tuthill:

I am enclosing our Comments and Brief on the above matter as requested in your letter of July 25, 1980.

A copy has been forwarded to Stephen V. Goddard of the Attorney General's Office.

Very truly yours,

James R. Bennetts

JRB:dl
Enclosure
cc: Stephen V. Goddard – Verified to be sent per telecon by DRT 8-13-80
Kent Foster
HOLDEN, KIDWELL, HAHN & CRAPO
Idaho Falls, Idaho

MICROFILMED

TO: DIRECTOR
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

RE: Application No. 73-7045
Minimum Stream Flow

COMMENTS AND BRIEF
Offered on Behalf of:

Water District No. 73 for the Pahsimeroi River, State of Idaho, and ROY ELLIS, individually and as a member of Water District No. 73, WORTH BOGGEMAN and JACK FUREY, individually and CHARLES KESL, Water Master, District No. 73, and DUANE MOEN, JOE SCOBLE, PRESTON DIXON, FRANK UNQUERA, JIM DOWTON, JOHN BRUGGENKAMP, GEORGE WHITWORTH, GILMAN MARTINY, DON M. O'NEAL and E. L. LATIMER, individually as well as members of Water District No. 73 for Idaho.

We object to the granting of the above application for a number of reasons and factors including the following:

1. Even at this late date, apparently no one connected with the application knows precisely what stretch of the Pahsimeroi River is under consideration for minimum flow and precisely whether the application includes the point of diversion for the upstream Idaho Power facilities or excludes the same. The intent of the application is not clear as to where the upstream measurement is to commence. The confusion in the application and supporting testimony dictates that the permit be denied.

2. Again, specifically under Paragraph 10, of the application, the Applicant seems to request the minimum flow for the benefit of the Idaho Power fish rearing facilities. If that is really the case, the application is not for a proper purpose as cited under Idaho Code Section 42-1503. The application should fail as it is for the private benefit of Idaho Power as opposed to the public purpose required by law. Further, we have been informed time after time in this proceeding that this application will not affect prior rights. Likewise, let us remind the Applicant that the water rights of those fish rearing facilities are presently secure as covered by permits numbered 33431-73-2168 and 73-7006 with priority dates of 1967 and 1969 respectively. In short, the question comes to mind as to what the proponents are really seeking - minimum stream flow or

attempted protection of existing permits.

3. Again, in regard to the Application, we would point out that the information contained in the permit as to the importance of the Pahsimeroi River to the over all steelhead population is confusing if not misleading. (See last sentence Paragraph 10). We do not wish to ignore the steelhead, but let us put everything in proper perspective. The Pahsimeroi River does not produce 85% of the total steelhead either nationwide, statewide or on the Salmon River drainage, as the application might infer. About all that was proven by competent evidence is that the Pahsimeroi River produces 100% of the steelhead coming out of the Pahsimeroi River. It has been further established by the record that if we continue to lock up our resources, foreclose our future options and ignore the ingenuity of man, there will be no production of steelhead at all from this stream. We agree that the Pahsimeroi River steelhead resource is important to Idaho and to all of us. What has made it so is the fact that Idaho Power was able to take unappropriated water and through considerable manipulation, ingenuity and resourcefulness put the water to beneficial use. Surely, the Fish & Game Department cannot take that same philosophy and make it support the opposite concept dictating lock up with no further possibility to review our options in the future.

4. Information added to the record does not really clear up much of the confusion in regard to flows - it would take considerable expense and considerable time to interpret and explain this material, expense and time which my clients cannot afford and do not feel obliged to suffer. It is up to the State to at least make a prima facie case. They have not done so. Where, for instance, is any information as to water loss -- is the State able to testify, for instance, that the Pahsimeroi River does not have tendencies similar to Lost River on the other side of the summit and show losses of surface flows for short stretches of the river with reappearances downstream. If such is the case, minimum flows would be impossible.

We are not satisfied with the answers and specifically object to materials and figures being assembled on July 29, 1980, some 20 days after the hearing, and their being submitted without our right to question the same at the appointed place and time of hearing. The entire approach tends to prove our theory. The Fish & Game Department was not ready, did not have the information needed, and could not support their application when offered. It is not just or equitable to expect the parties adversely affected to stand the expense of continued deposition hearings. Further, they should not have to continue to answer these items as they come in from time to time on a piecemeal basis. We agreed to permit such information to be presented subject to our right to examine the presentors at a proper deposition hearing. We will abide by that agreement, but we did expect that all such data be offered at least in affidavit form. At this point, the material appears as just so much more informal public comment.

5. This thought brings forth another point which certainly ought to prove our above theory as being fact. We have been bombarded with the concept that Idaho Power and the State have spent large sums of money and much effort during the development of the fish rearing facilities on the Pahsimeroi River -- both facilities mentioned are within the stretch requested for minimum flow. Further we are told that more water will need to be appropriated for future expansion. (See transcript and see letter subsequent to hearing by Idaho Power dated July 18, 1980, Allan R. Ansell). We have repeatedly asked, and we ask again, does the Fish & Game Department really know what it wants? Perhaps it is up to some of us to save them from themselves. They can argue till they are blue in the face that their's is a non-consumptive use, but it is consumptive so far as concerns that reach of the river over which the water has been removed. Any new appropriation by Idaho Power or anyone else would violate minimum stream flow unless excess water is available. By their kind of logic, a rancher

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could argue that he is a non-consumptive user because, as shown by the testimony of witnesses on both sides of this matter, most of the irrigation water finds its way back to the flow of the river just as the waters used in the fish facilities do. The entire point is, however, that the anticipated applications for additional permits on behalf of Idaho Power, as suggested by the witnesses and by Idaho Power letter above, will have to be rejected if this permit is approved. It has been inferred that all the Department would have to do is petition the Legislature for an exception to the law. If the attitude of those legislators present at this hearing is any indication of overall legislative attitude, the Department had better rethink its strategy. My clients are interested in the success of the steelhead program too. Therefore, we insist that the Department get its priorities in order and let us all know what they really want before this application gets further attention. It is perhaps rude on our part to suggest that we know what is best for the opposition, but put very simply, we do. They are obviously confused. They appear to want their water and drink it too.

6. As a matter of justice and equity, we register an objection to a hearing - advertised as a public hearing - having such a degree of finality and such a degree of importance as this hearing with no more notice than was granted. It would have been such a simple matter for someone of the proponent agencies (i.e. the Fish & Game Department, the Water Resources Board, or the Attorney General's Office) to at least drop a letter to the Pahsimeroi Water District, or its Secretary, outlining the ground rules of the hearing and certainly pointing out that this was a hearing of record and that the record made could become the basis of an appeal. If that was too much trouble then at the very least such information could have been included in the printed notice. You, as Director, had leeway under 42-1503 to "also give other notice...in such manner and to such persons..... as he

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may determine". Between our federal, state and local agencies, we at Challis can attend as many public meetings every week as we wish. On any given evening we always have a choice. The problem is always one of time and selection of what is important. In this case, we think the matter should be considered as what it was advertised to be -- a public meeting -- one generally assumed to be for the purpose of disseminating information. The petition should be denied. The Fish & Game Department can come back some day when it is prepared and when we know precisely what it wants. To bring forth the might of the Fish & Game Department, Water Resources Board and Attorney General's Office all as proponents in opposition of the waters' users who had inadequate notice or time to prepare, is extremely inequitable. Let us point out that the Water District is, after all, considered an arm of the State under the Department of Water Resources. Isn't the District entitled to fair unbiased consideration by all agencies - including representation from the Attorney General's Office? In short, it is in the best interests of justice to immediately dismiss this particular application from further consideration. The proponents have had months and years to prepare their case. We were given days, with inadequate notice of the full impact of the result.

7. We refer you to the record to support our re-charge theories and concepts. That theory seems well supported by our witnesses, some of the state's witnesses, (especially, but not limited to, Butch Welch) and by the documentation submitted. (See "A Reconnaissance of the Water Resources of the Pahsimeroi River Basin, Idaho", at Page 9, last paragraph and elsewhere.) Again, it seems that maximum upstream use tends to be of benefit for all downstream purposes including game habitat, fisheries and flow. The record seems to overwhelmingly support this idea. What then is the problem? We suggest action which encourages use - especially early in the season - not action which discourages use and decreased late summer and fall flows.

8. We refer to our earlier written comment submitted July 9th, 1980, but would like to stress one point again. The requested action is inconsistent with the stated purposes of the Minimum Stream Flow Act. That act states that "The preservation of the water of the streams of this state for such purposes when made pursuant to this act is necessary and desirable for all the inhabitants of this state, is in the public interest and is hereby declared to be a beneficial use of such water. The legislature further declares that minimum stream flow is a beneficial use of water of the streams of this state for the purpose of protecting such waters from interstate diversion to other states or by the federal government for use outside the boundaries of the state of Idaho." (Idaho Code 42-1501). The action being requested here is totally out of phase with that policy. Nothing will be accomplished by approval but to lock up the flows of the Pahsimeroi River from use in Idaho - whether for fish hatcheries or whatever and to insist on the immediate flow of water downstream into the Salmon River and on through Idaho's vast wilderness area with little or no chance of appropriation until those waters reach Oregon and Washington. We ask, is that 'necessary and desirable for all inhabitants of this state'? Is that 'protecting such water from interstate diversion to other states'? As we stated earlier, there is nothing that we could do which will more certainly guarantee total repudiation of the above noble purposes than to grant this permit. The result could not be better for those downstream states if they paid for it. Downstream interests now have it all their own way with both the fish and water. The worst thing our sister states could say about our action would be that we prevented Idaho Power and the Department of Fish & Game from taking more water to raise more fish for downstream migration. However, with all the other windfalls, they might overlook that gripe. Mr. Director, your agency is charged with the responsibility to show sound judgment in the handling of one of our most, if not our most, important single resource. Please give this matter deep consideration - we could be

setting a course that will have grave repercussions, and certainly a course that the legislature could have never intended. Again, we refer you back to the purposes intended by the very act itself.

9. Why would we tie up our water from future use agriculturally in Idaho, for all time, when we do not even know our future needs for food and fibre and when we have every reason to now believe that we will have a return of fewer and fewer steelhead regardless of how many we send downstream. Let us not be so naive as to assume our downstream neighbors will stop taking advantage of us... as long as we continue to let them.

10. We could particularly disagree with some of the data recently submitted by the Fish & Game Department, and in fact, we could offer information on our flow measurements and the like, but for the reasons stated earlier, we do not feel that this informal presentation of opinion and material constitutes competent evidence as anticipated by (42-1503 (c)) of the act. We, therefore, repeat, let the interested parties put a case together and come back with full notice when they are ready to tell us what they want.

11. Finally and most importantly, we do not feel that you, as Director, can reach the findings required under 42-1503 (e) sub (a) (b) (c) (d) and (e). Let us analyze these findings in order: a) We cannot say that there will be a lack of interference with existing rights - especially when all of the claims permitted by law have not yet been filed. Also, much of the testimony certainly tended to show that any attempted decreases in upstream uses could be detrimental to existing downstream user rights during the late part of the growing season. As well, reduced use could be detrimental to wildlife habitat because of diminished flows in sloughs and springs. Likewise, this action could be detrimental to the fisheries during the critical late summer months when the highest flows are requested by the applicant. During those periods re-charge from prior periods is critical.

b) Again, as pointed out earlier, we have to question whether this is in the best public (as opposed to private) interest. The attempt seems to be to lock up the water for future fisheries use by Idaho Power. That use is private -- an effort to apparently compensate for other damage to fisheries perpetuated by that Company. Again, as the members of the public most greatly affected, the Pahsimeroi River water users are telling you this is not in the best public interest.

c) Is the action necessary action for preservation of fish, wildlife, fish habitat..etc.? No, as shown above, it accomplishes the opposite result. Again, the interesting point is that the only showing so far has been regarding the need to protect the fish rearing facilities. That habitat is not even in the stream and has nothing to do with minimum flows.

d) Is this the minimum flow as opposed to ideal flow? We cannot fully respond - we apparently are told to believe the computer. The computer was not present to be cross examined. Neither were the people furnishing the data to the computer. The materials furnished later apparently were not under oath or even in affidavit form. The material appears as just so much comment or worse yet, just so much opinion. We feel this is not competent evidence upon which to submit a finding on this point.

e) Is the minimum flow capable of being maintained? Flow figures for 1980 must be put in perspective. Many of the witnesses did or would testify that 1980 was an exceptionally good water year - showing extremely high flows. Although, we do not necessarily agree with the methods used in presenting the data, let's look at the figures submitted by the Department of Fish & Game regarding the flow measurements of 7/29/80 taken below the ponds near the Dowton Lane. This measurement shows a total of 68.38 CFS at a point below the return of water from the ponds. Many seeps and springs add water to the stream between Dowton Lane and the point of measurement. Again, that stretch of river between the point of the Idaho Power diversion and the return of that water would in theory measure only 58.38 (i.e. 68.38 less the Idaho Power priority of 1969 of 10C.F.S.). The flow figures submitted earlier

show that the river flows decline during this period of year. Yet, starting August 1, the request is for 127 C.F.S. for that entire stretch. The flow request then is for considerably more than twice the water available according to the Department's own studies and figures. This for the best water year in decades.....under this requirement it is absurd to consider the request in contrast to an average year. Again, by August of any year, water is always in short supply upstream from the Dowton Land; therefore, the water master has the headgates shut down to the decreed rights. Where, then, will the water come from?

Mr. Director, by the proponents own figures, the application cannot be supported. It does not even come close.

- - - - - - -

In summary, the application must clear on each of the five standards established by the statute. It fails on every count. Approval of this permit would be a grave injustice and bring discredit to every agency associated with the matter.

DATED: August 7, 1980.

Respectfully submitted,

James R. Bennetts
Attorney at Law
P. O. Box 36
Challis, Idaho 83226
Telephone: (208) 879-4488

RECEIVED
AUG 11 1980

STATEMENT OF REASONS AND BRIEF

TO: DIRECTOR OF IDAHO DEPARTMENT OF WATER RESOURCES

PLEASE Accept the following comments both formally and informally in support of a protest filed on behalf of the above named parties some of whom have requested formal appearance and some of whom have not, but all of whom have certain water rights in the Pahsimeroi drainage that will be adversely affected by approval of the described minimum stream flow application, Permit No. 73-7045. Some specific reasons in support of this protest are as follows:

a) Section 42-1501, Idaho Code, sets forth that the policy of the Minimum Stream Flow Act shall be as follows: "The legislature further declares that minimum stream flow is a beneficial use of water of the streams of this state for the purpose of protecting such waters from interstate diversion to other states or by the federal government for use outside the boundaries of the state of Idaho. Minimum stream flows as established hereunder shall be prior in right to any claims asserted by any other state, government agency, or person for out of state diversion." It is obvious, however, that granting this minimum stream flow application will produce exactly the opposite result. The effect of approval of the application will be to deny future beneficial use of the water here on Idaho lands, or for Idaho projects, thereby diverting these waters on downstream for consumption and use in other states.

b) These Protestants believe that the water policy of the State of Idaho is and ought to be to the effect that Idaho water should be applied to Idaho projects in preference to out of state flow. Certainly there could be no harm in permitting the Department of Water Resources to leave its options open in respect to future use of the river.

c) The Constitution of the State of Idaho, Article 15, Section 3, specifies that "the right to divert and appropriate the unappropriated water of any natural stream to beneficial uses shall never be denied". The language following that comment makes it clear that the framers of the Constitution did

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JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
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not have aesthetics and recreation in mind while drafting the document. At least if they did, they were giving it low priority by complete disregard. We believe the present request is contrary to the Constitution of the State of Idaho, contrary to the state's best interests and not in accord with the law of the state of Idaho or the United States of America.

d) The need for the required amounts of flow at the location mentioned has not been supported by the permit. These Protestants believe that the amount of water requested cannot be justified. These parties have not been given access to the information gathered in support of stream flow. Protestants, however, state that the request cannot be granted without jeopardizing existing water rights including legal claims to existing water rights not yet filed.

e) It is the considered opinion of the water users of the Pahsimeroi drainage that it is in the best interest of all parties, including the Fish and Game Department, to encourage heavy use of the flows of the Pahsimeroi drainage through the drainage. Complete use of the flows of the River through the spring and summer holds the water table at a maximum level, encouraging the flow of the sloughs and springs on downstream thereby creating more water for all users and uses. Adherence to the minimum stream flow policy could create a situation where the result would greatly impair existing water rights or priorities. Limited or lesser flows in certain of the sloughs and side springs could likewise put fish populations and aquatic life in danger and would lessen the cover and forage for wildlife and domestic animals.

Also, adherence to the minimum stream flow policy would encourage sprinkler irrigation and would thereby diminish the water table and reduce the river flow. As a result, existing rights would be put in jeopardy. The future potential of the river would be curbed. Sprinkler irrigation is something area ranchers can ill afford and is contrary to our natural energy conservation policy.

f) In further support of their protest, these parties submit that future applications to apply Pahsimeroi water to beneficial uses should not be automatically and forever barred, but should be taken upon their merits with a full review of the needs and circumstances at the time.

g) The request is apparently sought for the purpose of maintaining the fishery habitat (especially in respect to steelhead). These Protestants are

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
TEL. (208) 879-4488

also aware that the steelhead runs appear to be in jeopardy. The present problem, however, is not the water flow in this drainage; the problem is downstream. Therefore, these parties respectfully submit that some further assurance or guarantee of upstream migrations must be sought prior to a complete lockup of these resources to the detriment of Idaho citizens. We have already given enough downstream when we gave up the fish.

h) Idaho Power Company has previously been granted, at least two water rights with license Number 73 7006 and 33431-73 2168, priority dates August 1, 1969 and January 20, 1967, respectively. The first mentioned license grants Idaho Power 40 CFS and the second grants 10 CFS from the Pahsimeroi River for the purpose of fish propagation. The diversion points of these waters are apparently downstream from the upper minimum flow stations being requested. These parties would point out that the diversion of such amounts of water from the Pahsimeroi River for the short stretch prior to its return from the fish rearing facilities results in an impossibility to maintain minimum stream flow requested in all downstream stretches of the river. We have not been afforded all of the data collected, but we do not believe that the requested flow can be delivered even in the best water years. The requests are not realistic and are especially unrealistic in respect to stretches of the river immediately below some of the diversion points. The normal flows do not support the minimums requested.

i) The application further points out that some 85% of the steelhead (supposedly of the entire 1979, Idaho harvest) come from the Pahsimeroi. It is agreed that this is a sizeable contribution for this river. All of this has been accomplished because of the industry and ingenuity of man, not in spite of it. Certainly the river did not historically bear such a share of the burden. This achievement was only possible because in 1967 and 1969, the Department was able to consider the Idaho Power permit requests. Aside from all agricultural pursuits, let us ask how advisable your approval will have been should Idaho Power, the Department of Fish and Game or others desperately need to increase their non-consumptive use for a short period of time in order to maintain or improve the present project. It seems that if minimum stream flows were going to be violated, you would not be in a position to consider such a proposition regardless of the consequences.

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
TEL. (208) 879-4488

MICROFILMED

j) These parties have not had ample opportunity to review the evidence and material upon which the application is based. Therefore, they respectfully request that each of them, individually or collectively, be given the opportunity to make such a review so that within a reasonable time after the hearing they might be allowed to submit other evidence, comments or briefs based upon the facts and law in respect to this matter. They wish to remind the Director that although the described application was filed on the 19th day of December, 1979, these parties were not made aware of its existence until the publication of the Notice of Hearing subsequent to June 12, 1980, (a very busy time of the year for ranchers). To this date, these parties are still not fully apprised of the reasons or facts in support of the application. They likewise have not had the opportunity to make measurements of the stream through various flow periods or to gather evidence in support of their protest. It is apparent that the parties in support of the application have done a substantial amount of work over a period in excess of a year and a half without the knowledge of these users. These Protestants, again, respectfully, request the opportunity to submit written briefs or statements within a reasonable time after the conduct of the scheduled hearing of July 9, 1980, or in the alternative to have such hearing continued from time to time until they have had the opportunity to fully respond to this proposition both as to fact and law.

Respectfully submitted,

James R. Bennetts
Attorney at Law

RECEIVED
JUL 8 1980

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
TEL. (208) 879-4488

MINIMUM STREAM FLOW HEARING
ON PAHSIMEROI RIVER
73-7045

ATTENDANCE ROSTER

NAME	ADDRESS	REPRESENTING	PARTICIPATION FULL PARTY	PARTICIPATION PUBLIC STATEMENT
Lyd Dawson *	Salmon 83467	Dist No 73 Pahsimeroi river		yes
Jimmie S. Dawson *	May Idaho 83253	" "		yes
Roy Ellis *	Ellis Idaho 83235	Dist 73 Pahsimeroi		yes
Lou Allred *	May, Ida 83253	District 73		yes
John Bruggenkamp *	May, Ida 83253	District 73		
Dwight Higbee *	Ellis Idaho 83235	Dist 73		
Louie Dampeth *	Salmon, Ida 83467	Lemhi Co. Comm		yes
Ray Rehmann	~ ~	State Rep. dist 30		✓
Herb Pollard	Boise Id	Idaho Fish & Game	✓	no
Tom Levendofske *	Ellis, Id. 83235	Id. Fish & Game	✓	yes
Don Glatz *	Ellis Id 83235	Dist 73 Pahsimeroi Riv		✓
John White	Salmon, Box 1946 Ida.	Jw Custom Rods & Flies		yes
Gidell Omar	Ellis Ida 83235	Omar Farms		yes
C.W. Webb ✓	Box 787, Challis 83226	IFG	✓	yes
Kent Ball ✓	Box 1336 Salmon 83460	Idaho Fish & Game	✓	yes
Steve Riddell	1115 Oaklawn	Idaho Fish & Game	✓	no
Merle Boggess	Ellis, Ida 83235			no
L.L. Anderson	Box 18 Clayton	Central Idaho Inv Assn	Yes	yes
Bonnie Chatburn ✓	May 83253	Dixon Ranch		no
Bob Sawyer *	Salmon 83467	Salmon		no
Wm. Boggess	Ellis 83235			no
Charles Keel ✓	May 83253			no

MICROFILMED

MINIMUM STREAM FLOW HEARING
ON PAHSIMEROI RIVER
73-7045

ATTENDANCE ROSTER

NAME	ADDRESS	REPRESENTING	PARTICIPATION: FULL PARTY	PARTICIPATION: PUBLIC STATEMENT
J R Bennett	Challis	Atty for Dist #73 + others	Full Party	yes
Ralph Hall	Ellis 83235	Self		
James M. Hawkins	Challis 83226	Cooperative Extension Service		
Ray Howard	May 83253	Spring Creek Ranch		No

RECEIVED

MSF NOTES

Pahsimeroi River
73-7045

- On December 19, 1980, the IWRB received a request for a minimum stream-flow on the Pahsimeroi River tributary to the Salmon River.

- This request was considered by the IWRB on the December 19, 1980, and that day the Board filed an application with the IDWR.

- Copies of the application were sent to the State Departments of Fish & Game, Health & Welfare and Parks & Recreation.

- A public notice of the application was advertised by the Custer Publishing Company on June 12 and 19, 1980. The notice included information about this hearing.

- Letters in support or in opposition:
  Support : Fish & Game
  Health & Welfare
  Opposition : Roy Ellis, Ellis Id.

  NOTICES OF APPEARANCE HAVE BEEN DISCUSSED

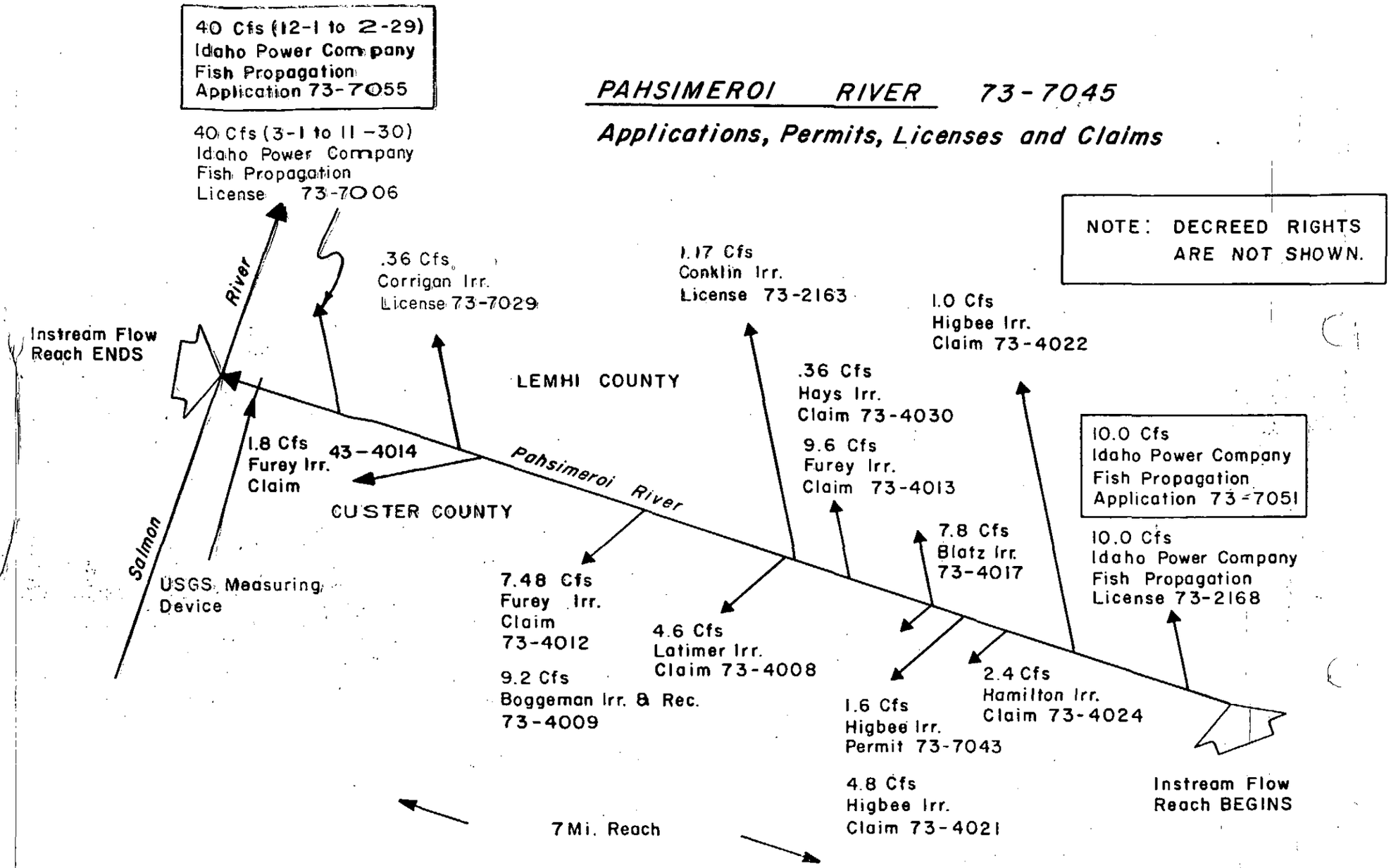
- Present staff exhibit 1 which depicts the location of the reach of stream in question.

- Present staff exhibit 2, which is a schematic of the reach.

- Present staff exhibit 3, which is a flow duration curve of the flows in the Pahsimeroi River at the USGS measuring point.

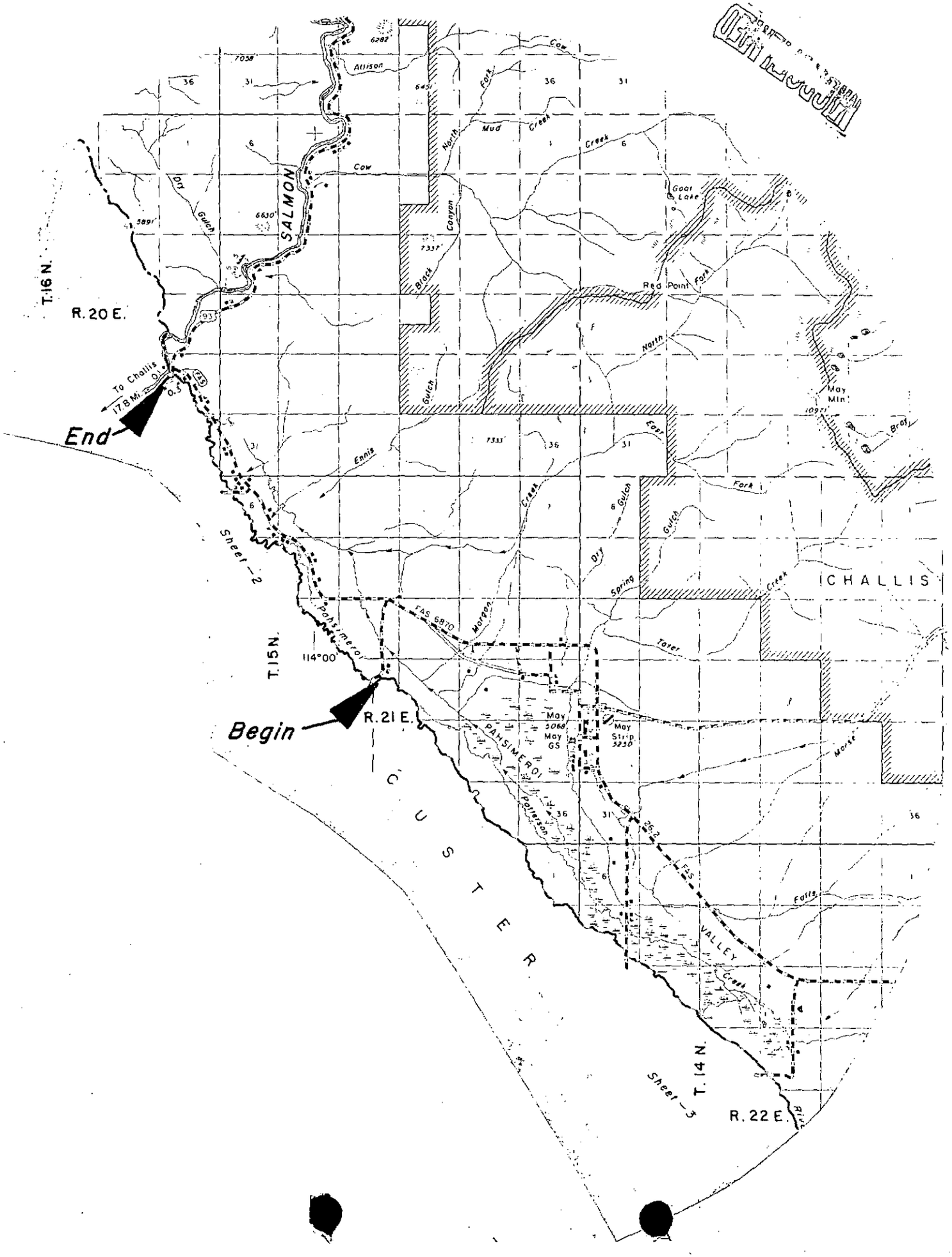
PAHSIMEROI RIVER 73-7045

Applications, Permits, Licenses and Claims



Board Requested Flows Cfs By Month –

J	F	M	A	M	J	J	A	S	O	N	D
85	74	78	109	109	78	78	127	127	127	85	85


T.16 N.
R.20 E.
SALMON
Allison
Cow
Dry Gulch
Black Canyon
Goat Lake
Red Point
North Fork
Mud Creek
May Mtn.
East Fork
Ennis Creek
Dry Gulch
Spring Creek
ICHALLIS
To Challis
17.8 Mi.
0.5
End
Begin
Sheet-2
Pahsimeroi
FAS 6870
Morgan
Taxer
114°00'
T.15N.
R.21 E.
May 5068
May GS
May Strip 5250
PAHSIMEROI
Peterson
Morse
CUSTER
FAS 2
Falls
VALLEY
Creek
Sheet-3
T. 14 N.
R. 22 E.

ATTENDANCE ROSTER

NAME	ADDRESS	REPRESENTING
✓ Larry R. Wimer	Box 70 Boise, Id 83707	Idaho Power Co
✓ Bob Moore	Box 85, Ellis, 83235	Idaho F & G
✓ Paul Mensen	Box 707, Challis, 83226	I.F. Post-Register
✓ Chuck R. CHARLTON	STAR Route Ellis, Idaho	– Chuck R. CHARLTON
✓ ~~Leigh Dowton~~	Box 542	Salmon
✓ Clara E. Dowton	Box 542	Salmon
✓ Pearl Co. Crystal	Rte 6 Box 232 Idaho Falls	State Senate Dist 20
✓ Jay Bennett, atty	Box 56	Challis
✓ Wayne E. Tibbitts	Lorenz St. Rt. 212 - Rigby, Idaho	- State Rep Dist 28
✓ Louie Damron	Box 1195 Salmon	Lemhi Co. Comm'n
~~Lynnston Smoke~~	RR 1 Box 49 Salmon	Lemhi Co. Comm.
✓ Dylan Christi	Mackay Idaho, Box 94	Custer County Comm.
✓ Roy Elliot	Star Route	Ellis, Idaho 83235
✓ ~~Matsumura Bros.~~	Blackfoot Ida - By	Bud Burns, Ellis Ida
✓ Vaugh Hyden	Box 33 Ellis Ida	Vaugh Hyden
✓ Lona Blatt	Star Rt. Ellis	Lona A. Blatt
~~Mackay~~	Mackay	May & Orbe
✓ Don O'Neal	May, Idaho	Lemhi County Commission
✓ Bill Horton	1540 Warner Ave	Idaho Dept of Fish + Game
Lem Zogt	May, Idaho	Rancher
✓ Martin Landa	May, Idaho	Rancher
✓ Jim Hawkins	Challis, Idaho	County Agent
✓ Dwane Moon	May, Idaho	Rancher & self
✓ Joe Landa	May, Idaho	Ranchers & Self
Merle Dye	May	Rancher
✓ MIKE FIELD	PocATELLO	d.s. Jim McCLURE
✓ Mark Chivers	Challis	Earl Chivers & self
✓ Tim Ingram	" "	Ingram Rch
✓ Gary Chapman	"	Ingram Ranch
✓ ~~Ralph Hall~~	Ellis	Hotch Livestock
~~Linus Hughbanks~~	May	Spring Creek Ranch
✓ Glen A. Hall	Mackay	L & L Ranches

MICROFILMED

IWRB

Informal Public Meeting

Wed Nov 18, 1981

D. Tuthill Notes

- Reed Hansen - Opening Remarks — TOTAL ATTENDANCE - 4.

- Scott Reed - Explained new guidelines

- D. Tuthill - Explained 1. location of MSF
  2. Other water rights
  3. Data at lower gauge station

- Herb Pollard (State fisheries manager) - Introduced himself and Bill Norton

- Bill Norton - New MSF person for the state (replaced Tim Cochnaur

- Larry Wymer - Idaho Power Co.

  In the late 60's IPC started attempting to continue salmon & trout runs in existing watersheds

  Pahsimeroi hatchery was created in late 60's

  Feb, 1980 a settlement was agreed to via FERC by all parties concerned. Agreement includes 400,000 Lb Steelhead smolts; 4,000,000 spring chinook & ?

  - 200,000 lb smolts produced at Pahsimeroi
    200,000 Lb
  - New settlement requires that spring chinook also be produced by Id Power Co.
  - These requirements necessitate increasing the flow of the upstream facility to 20 cfs & year around flow @ lower hatchery

- Kent Ball - IDF&G

  Reviewed briefly info provided at the initial hearing

  Demonstrated/Presented data accumulated this year

- Comment by Don Blatz - The last 3 water years have been excellent water years

The public pointed out that there may 2 points of distinction as to water requirements:

1. Spawning requirements
2. Requirements to convey smolts from the acclimitization ponds downstream to the mouth

- Senator Crystal
  - Believes that we should wait until after all b/u rights are recorded in 1983

- Rep ~~Tibbetts~~ Enfanger
  Echoed the comments of Sen Crystal & had a ? about the intent of the app- whether to provide water for Id Power Co or for the stream

- Many persons expressed a concern that establishment of a MSF will cause a cut-back to 1"/acre of existing rights

- Rep Tibbitts
  Made a statement expressing a concern that this MSF will damage irr rts.

- Ron Carlson
  Indicated that if more than 1"/acre is needed to irrigate then a claim should be submitted for the excess water.

- Mr Bennetts
  - The people in the valley want to be able to use the water at a later time / They don't want to tie it up
  - restated points in his brief

47-7045

PAHSIMEROI RIVER MINIMUM STREAM FLOW

SUMMARY OF EVENTS

Date	Action
12/19/1979	Request received from Idaho Department of Fish & Game (IDFG).
12/19/1979	Application filed by IWRB.
06/12/19/1980	Application and hearing advertised by Custer Publishing Co.
07/09/1980	Hearing held in Challis.
08/30/1980	Hearing record closed.

ISSUES

1. The exact limits of the reach are not clear.

2. The relationship of the MSF to the Idaho Power Company fish propagation facility is not clear.

3. The amount of steelhead production from the Pahsimeroi River is not clear.

4. Increased flows diverted by irrigators in the spring may provide increased return flows in the river during summer and fall via underground storage.

5. Establishment of a MSF may in this case be contrary to the purpose of "protecting such waters from interstate diversion to other states", since it would enable waters of the Pahsimeroi to flow undiverted into our sister states.

6. The application may not meet the minimum criteria which states that it:

   a) Will not interfere with any existing water rights;
   b) Is in the public, as opposed to private, interest;
   c) Is necessary for the stated purposes of the MSF;
   d) Is the minimum flow and not the ideal flow; and
   e) Is capable of being maintained.

DRT NOTES

1. Present Staff exhibit 1 - Location of MSF
2. Present Staff exhibit 2 - Location of other rts
3. present Staff exhibit 3 - Flow records of the Pahsimeroi River near May

MICROFILMED

RESOLUTION
OF
TRI-COUNTY CATTLEMAN'S ASSOCIATION
CUSTER, LEMHI AND BUTTE COUNTIES,
IDAHO

WHEREAS, The Legislature of the State of Idaho has adopted legislation commonly referred to as the Minimum Stream Flow Law, and

WHEREAS, It appears that the Water Resources Board for the State of Idaho is presently holding hearings to determine the feasibility of estalishing minimum flows on the Pahsimeroi River in Custer and Lemhi Counties, and

WHEREAS, It further appears that should the minimum flows be established as requested, the possibility of further or future agricultural development in the Pahsimeroi Valley will be foreclosed, and

WHEREAS, It further appears that existing water uses may be jeopardized by accepting the minimum flow application, and

WHEREAS, One stated purpose of the referred to legislation is to protect "such waters from interstate diversion to other states or by the federal government for use outside the boundaries of the State of Idaho", and

WHEREAS, It further appears that a minimum flow of the Pahsimeroi waters would most certainly assure a result contrary to the above stated purpose and policy by requiring flows into the Salmon River, thence on North through the Idaho Wilderness with little or no hope of beneficial use until the waters entered other states, and

WHEREAS, Many of the existing water rights will not be determined fully until June of 1983, at the earliest, and

WHEREAS, For the foregoing reasons and based upon all facts now available, it appears unwise to permit the minimum flows requested by Permit #73-7045,

THE TRI-COUNTY CATTLEMAN'S ASSOCIATION
hereby resolves that such Association opposes the application and requests the Water Resources Board for the State of Idaho to deny the same.

DATED:

Nov. 12, 1981.

Respectfully,

Garth Chivers

GARTH CHIVERS, President
TRI-COUNTY CATTLEMAN's Association

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RECEIVED

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DATED: NOV. 12, 1981

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Garth Chivers

GARTH CHIVERS, President
TRI-COUNTY CATTLEMAN's Association

RECEIVED
NOV 16 1981

RESOLUTION
OF
CUSTER COUNTY RESOURCE AND ECONOMIC STABILIZATION COMMITTEE

WHEREAS, The Legislature of the State of Idaho has adopted legislation commonly referred to as the Minimum Stream Flow Law, and

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THE CUSTER COUNTY RESOURCE & ECONOMIC STABILIZATION COMMITTE hereby resolves that such Committee opposes the application and requests the Water Resources Board for the State of Idaho to deny the same.

DATED:

Nov 12 81

Respectfully,

Allen Hatley

CUSTER COUNTY RESOURCE & ECONOMIC
STABILIZATION COMMITTEE

MICROFILMED

RESOLUTION
OF
CUSTER COUNTY RESOURCE AND ECONOMIC STABILIZATION COMMITTEE

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Respectfully,

Allen J. Fetty

CUSTER COUNTY RESOURCE & ECONOMIC
STABILIZATION COMMITTEE

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DATED:

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CUSTER COUNTY RESOURCE & ECONOMIC
STABILIZATION COMMITTEE

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DATED:

Nov 12 81

Respectfully,

Allen Slatley

CUSTER COUNTY RESOURCE & ECONOMIC
STABILIZATION COMMITTEE

WRC
MICROFILMED

RESOLUTION
OF
CUSTER COUNTY RESOURCE AND ECONOMIC STABILIZATION COMMITTEE

WHEREAS, The Legislature of the State of Idaho has adopted legislation commonly referred to as the Minimum Stream Flow Law, and

WHEREAS, It appears that the Water Resources Board for the State of Idaho is presently holding hearings to determine the feasibility of estalishing minimum flows on the Pahsimeroi River in Custer and Lemhi Counties, and

WHEREAS, It further appears that should the minimum flows be established as requested, the possibility of further or future agricultural development in the Pahsimeroi Valley will be foreclosed, and

WHEREAS, It further appears that existing water uses may be jeopardized by accepting the minimum flow application, and

WHEREAS, One stated purpose of the referred to legislation is to protect "such waters from interstate diversion to other states or by the federal government for use outside the boundaries of the State of Idaho", and

WHEREAS, It further appears that a minimum flow of the Pahsimeroi waters would most certainly assure a result contrary to the above stated purpose and policy by requiring flows into the Salmon River, thence on North through the Idaho Wilderness with little or no hope of beneficial use until the waters entered other states, and

WHEREAS, Many of the existing water rights will not be determined fully until June of 1983, at the earliest, and

WHEREAS, For the foregoing reasons and based upon all facts now available, it appears unwise to permit the minimum flows requested by Permit #73-7045,

THE CUSTER COUNTY RESOURCE & ECONOMIC STABILIZATION COMMITTE hereby resolves that such Committee opposes the application and requests the Water Resources Board for the State of Idaho to deny the same.

DATED:

Nov 12 81

Respectfully,

Allen Hatley

CUSTER COUNTY RESOURCE & ECONOMIC
STABILIZATION COMMITTEE

Water Flows of Pahsimeroi River Measured by Idaho Department of Fish and Game, 1981

Diversion No.[1]	Apr 22&23	May 12&13	May 28&29	June 15&16	July 13&14	Aug 10&11	Sept 11	Oct 20
UHO (B)	184	53	68	142	68	45	59	187
7 (A)	202		107	193	106	101	118	
7 (B)	202		98	193	87	84	96	
6 (A)	222		165	260	135	122	156	255
6 (B)	222		146	260	119	105	135	255
5 (A)	182		139	265	112	113	133	
5 (B)	182	109	120	236	106	91	112	
4 (A)	194	122	130	244				
4 (B)	194	122	127	244	112	96	117	
2/3 (A)	181	108	125		104	85	113	
2/3 (B)	174	103	119	206	96	75	105	
LHO (B)	198	116	150	255	129	116	145	275

Stream Flow Available below this point consistently

[1]UHO = Upper Hatchery Outlet
LHO = Lower Hatchery Outlet
(A) = Above Diversion
(B) = Below Diversion

MINIMUM STREAM FLOW APPLICATION

FACT SHEET

APPLICATION NO. 73-7045

SOURCE: Pahsimeroi River

TRIBUTARY TO: Salmon River

REQUESTOR: Idaho Department of Fish and Game.

APPLICANT: Idaho Water Resource Board

DATE APPLICATION FILED: December 19, 1979

QUANTITY: Variable based on month, in cubic feet per second as follows: J-85, F-74, M-78, A-109, M-109, J-78, J-78, A-127, S-127, O-127, N-85, D-85.

DESCRIPTION OF REACH: From the confluence with the Salmon River upstream seven miles to the fish rearing and release ponds located near Dowton Lane Bridge.

PURPOSE: To maintain trout and salmon spawning, rearing and migration.

OTHER: Numerous water rights exist throughout the seven mile reach.

MICROFILMED

RECEIVED
DEC 28 1981
Department of Water Resources

Dave T.

RECEIVED
DEC 21 1981
Department of Water Resources

DRT

Frank L. Felton
P.O. Box 151
Tetonia, ID 83452

December 16, 1981

Mr. Reed Hansen
Idaho Water Resources
Statehouse
Boise, ID 83720

Dear Mr. Hansen,

I would like to express my support for the maintenance of "adequate stream flow" in the Pahsimeroi to benefit first the habitat necessary for "game" fish, including ocean-going as well as fresh water. I have read the December 10th article in the Post Register, "Outdoor" section, written by Ken Robison and agree completely with his thesis that all present parties can benefit by maintenance of the "status quo." I feel that the greatest good for the most will be served by a policy that follows the guidelines set out in the article. There must be someone(s) who represents the interests of those of us who feel that wildlife habitat shouldn't be wantonly sacrificed for personal and individual gain, yet I do feel that proper management can strike a balance that can best satisfy all somewhat, rather than one at the expense of the other.

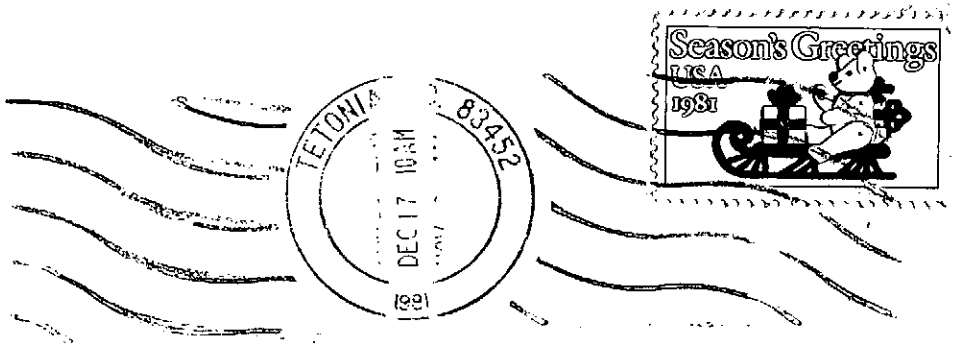
I appreciate your consideration of my views. I wanted to let you know how I felt and please don't take your valuable time to acknowledge this with a reply.

Sincerely,

Frank Felton

Frank Felton

Felton
P.O. 151
Tetonia, 83452



MR. REED HANSEN
IDAHO WATER RESOURCES BOARD
STATEHOUSE
BOISE, ID 83720

MICROFILMED

Pahsimeroi MSF File

RECEIVED

DEC 15 1981

Department of Water Resources

December 1, 1981
Pahsimeroi Water Users
Pahsimeroi Water Dist.
Jimmie L. Dowton
May, Idaho 83253

Department of Water Resources
State House
Boise, Idaho 83720
Reed Hansen

Dear Mr. Hansen;

We the undersigned would like to go on record stating the reasons for our opposing the minimum stream flow for the Pahsimeroi River.

If the water is taken in a minimum stream flow there can never be any more expansion of the agricultural base in the Pahsimeroi Valley and it would limit any other tax revenue of this sort.

There isn't sufficient water for minimum stream for the length of the Pahsimeroi River.

The minimum stream flow would affect the habitat of birds, game and native fish because it would dry up some of the marsh lands that are developed from flood irrigation practices used now.
The minimum stream flow would force a higher use of energy to go to pumps with sprinklers due to the lack of flood irrigation water available.

The minimum stream flow would force a lot of Ranchers out of business because of the high cost of energy if they had to comply with the minimum stream flow that would force them to use of electrical pumps and sprinklers to irrigate that they couldn't afford.

There would be a curtailment of irrigation water useage during dry years if there was a minimum stream flow.

We don't feel that a minimum stream flow would solve any of the Fish and Games Fishery problems and the detrimental impact of the agricultural community would be devistating for the County and State economy wise.

Signed by:

Vaughn M. Higbee
Jimmie L. Dowton
Duane Mohn

WATER RIGHTS

Pahsimeroi Misc File
565

United States Department of the Interior
BUREAU OF RECLAMATION
~~WATER AND POWER RESOURCES SERVICE~~
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043-550 WEST FORT STREET
BOISE, IDAHO 83724

RECEIVED
DEC 15 1981
Department of Water Resources

IN REPLY
REFER TO: PN732
565.

DEC 14 1981

Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn:

It is our understanding that the Idaho Department of Fish and Game is seeking minimum flows for anadromous fish in the Pahsimeroi River in the following amounts:

	Cubic Feet per Second		Cubic Feet per Second
January	85	July	78
February	74	August	127
March	78	September	127
April	109	October	127
May	109	November	85
June	78	December	85

If changes in this request or other actions result from the Idaho Water Resource Board's public meeting in November or from subsequent processing, please keep us informed. It is possible that this matter may have a direct bearing on future investigations under our Idaho Anadromous Fish Habitat Restoration Study. Please direct any information to us attention code PN 706.

Sincerely yours,

Larry Vanderhaeghe

Regional Planning Officer

FILMED

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043 - 550 WEST FORT STREET
BOISE, IDAHO 83724

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

BOISE, ID 837
DEC 14
PM
1981

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF THE INTERIOR
INT-420

U.S. MAIL

Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

FROM: JAMES R. BENNETTS
Attorney at Law
P. O. Box 36
Challis, Idaho 83226
Telephone: (208) 879-4488

TO: DIRECTOR
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

RE: APPLICATION No. 73-7045
Minimum Stream Flow

COMMENTS AND BRIEF
Offered on Behalf of:

Water District No. 73 for the Pahsimeroi River, State of Idaho, and ROY ELLIS, Individually and as a member of Water District No. 73, WORTH BOGGEMAN and JACK FUREY, individually and CHARLES KESL, Water Master, District No. 73, and DUANE MOEN, JOE SCOBLE, PRESTON DIXON, FRANK UNQUERA, JIM DOWTON, JOHN BRUGGENKAMP, GEORGE WHITWORTH, GILMAN MARTINY, DON M. O'NEAL and E. L. LATIMER, individually as well as members of Water District No. 73 for Idaho, and others.

We object to the granting of the above application for a number of reasons and factors including the following:

We specifically refer to the pertinent portions of the earlier material submitted by us in this matter and confirm the positions therein cited.

We would like to make a short review of the statute that this hearing is being conducted under. By the terms of the act, one stated purpose of the legislation is as follows: "The legislature further declares that minimum stream flow is a beneficial use of water of the streams of this state for the purpose of protecting such waters from interstate diversion to other states or by the federal government for use outside the boundaries of the state of Idaho. Minimum stream flow as established hereunder shall be prior in right to any claims asserted by any other state, government agency, or person for out of state diversion." (Idaho Code 42-1501)

Can this Application meet the test? We feel that it cannot. If we foreclose our option to apply any more Pahsimeroi River water to beneficial use, we are sending that water out of state as absolutely and finally as is possible. Look at the circumstances - The Pahsimeroi River dumps into the Salmon River at Ellis and flows on North through the Lemhi Valley with little or no chance of being used. From there it flows on North and West through the Wilderness

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and Wild Rivers Area and on out-of-state, where finally it can be (and probably will be) appropriated and consumed. This Application violates the very purpose of the statute as certainly and absolutely as any set of circumstances that could be imagined.

Approval of any application must be based upon a finding that the minimum stream flow appropriation,

a) will not interfere with any vested water right with a priority date prior to the application,

b) is in the Public (as opposed to private) interest,

c) is necessary for the preservation of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation, transportation or water quality of the stream,

d) is the minimum flow - and not ideal or most desirable,

e) is capable of being maintained as evidenced by records of stream flows.
(See Idaho Code 42-1503).

Does the evidence support the five findings above? We say it does not.

First there are many unrecorded rights yet to be established on the Pahsimeroi River. Until these vested rights are determined, it would be difficult to say whether or not there would be a conflict between the application and prior rights. It is apparent that conflicts will arise should the minimum flow result in regulation of headgates beyond the historical regulation as administered by the Water District. Certainly, there will be controversy over whether some of the present water users are using water beneficially and so forth and so on.

Next, is the minimum flow in the public (vs. private) good? It appears from what we have heard, that Idaho Power will be the greatest benefactor. Idaho Power in its attempt to mitigate damages to the fisheries in other areas is attempting to buy itself out of trouble by establishing rearing facilities on the Pahsimeroi for the Chinook. The minimum flow request actually is an appropriation for the benefit of Idaho Power in order to permit it to mitigate losses elsewhere. The application fails on this point as it primarily and directly benefits Idaho Power rather than the public.

Is the application necessary for the preservation of fish and wildlife habitat, etc.? (emphasize ours) Two points - First point, we are not here talking about the preservation of an exist-

ing fish run - we are talking about establishing a new run ..... This is outside the contemplation of the statute. We feel establishing a new run of fish is a worthy goal - it can, however, be accomplished just as the preceeding steelhead program was established by specific appropriation of waters over a short run of the river. We do not have to foreclose our future options as to the use of the water to achieve the desired goals.

Second point, the statute specifically speaks to fish and wildlife, not fish or wildlife. The wildlife habitat would most certainly suffer should the re-charge concept referred to previously be curtailed. The side springs would dry back and much of the wildlife habitat in the valley would disappear.

Is the requested flow the minimum flow or is it the desirable flow? From the evidence we have seen, it appears that the request represents substantially more than the minimum in the true sense of that word.

Is the flow capable of being maintained? We answer that from our studies, it cannot be maintained - especially during the late summer and early fall months. The water is just not in the River to meet the levels requested. In reviewing the more recent Fish and Game studies, it appears that the requested water levels cannot be met.

The application must meet every one of the five standards set out above. It not only fails on one or two grounds, but it appears to fail in respect to all five standards.

Let us look now at the requirements of 42-1504, which dictate that "Said request shall be in writing and provide the same information required in the form provided for by section 42-1503, Idaho Code. The board shall consider said request within six (6) months after it is filed and may proceed to reject or accept the proposal." The application was filed December 19, 1979, As of tomorrow, it appears that 23 months will have elapsed since its filing and we are still talking about further formal consideration of Application No. 73-7045. This hardly seems in accordance with the statute. Holding informal hearings at this late date is out of order.

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Any further consideration given the application after 23 months is outside the scope of the statute. I would emphasize that the statute does not merely require initiation of consideration within 6 months - it directs and again I quote, "The board shall consider said request within 6 months."

Again, I would like to refer the board to the earlier materials and briefs submitted by us. I will not repeat our positions on re-charge of the acquifer and various other theories. Instead, I will ask you to review the material submitted. I would, however, like to again emphasize two points. Those are (1) the beneficial use of water in Idaho and (2) out of state use of Idaho water.

First - The beneficial use of water in Idaho. The Constitution of the State of Idaho, Article 15, Section 3, specifically states that "the right to divert and appropriate the unappropriated water of any natural stream to beneficial uses shall never be denied." That tells us that the highest law of our state recognizes the value of our water resource. We should always be careful to see that this great resource is utilized to the fullest. Now, if we look at the past years, we can see that our Chinook fishery has basically been lost. We have no Chinook fishing on the Salmon River and have not had for years. Chinook numbers were down drastically 15 years ago and yearly it gets worse. Why then do we want to forever tie up our options as to the future use of the Pahsimeroi River? Let me use an example to illustrate why we think this application is terribly short sighted. Let's say that 5 years from now, these same fisheries biologists are back with a new plan. They tell us that the Chinook are now gone. Therefore, we should appropriate 10 C.F.S. of water 2 miles below the Dowton Lane for the purpose of a trout rearing facility. Further, they suggest that the existing steelhead facility should be enlarged to double its capacity. What will happen? - We would have no choice but to deny both applications on the grounds that a) minimum flows would be violated for that stretch of the stream over which the waters were to be removed and b) minimum flows would be violated because of the evaporation loss and other losses sustained through diversion, removal

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and use. Could we please use some common sense and keep our options open? We see no immediate threat to the existing flows of the river. Agriculturally speaking, most of the irrigable BLM lands have been withdrawn from entry and power costs would preclude pumping anyway.

Next - Let's consider use of the water outside the state. This application, would as discussed before, almost surely dictate that the only future use of the Pahsimeroi water would be outside the state. This is not in accordance with Idaho water policy or the statute under consideration here. In fact, I might again point out that we have sent our fish to Oregon and Washington and now we appear to be on the border of sending the water too!

DATED: November 18, 1981.

Respectfully,

James R. Bennetts, Attorney at Law
Pahsimeroi Water Users

MICROFILMED

Pahsimeroi MSF File
DRT

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226

(208) 879-4488

RECEIVED
DEC 7 1981
Department of Water Resources

December 1, 1981

David R. Tuthill, Jr., P.E.
Supervisor, Water Allocation Section
State of Idaho
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045 - Pahsimeroi Water Users

Dear David:

I am enclosing copies of comments on behalf of the Pahsimeroi Water Users, in regard to the above matter. Additionally, I would like to add a few comments by way of this letter and would appreciate proper distribution to the various board members as appropriate. I would make a direct mailing, but do not have their addresses.

First of all, on behalf of my clients and myself, I would like to thank the board members who attended the session at Challis. We all realize the individual sacrifices that are made in serving the public. David, I hope everyone involved will appreciate that the comments made at the meeting my myself and others at the meeting were not intended to be personal in nature. It seems, however, that our area has always been at the forefront when new ideas or concepts (and innovative practices) are to be implemented. Perhaps it is this particular circumstance that makes us better able to quickly get to the basics during our discussions.

I believe that perhaps the most important single development at the meeting was the apparent concession on the part of the board to the effect that the figures developed by the Department of Fish and Game (including the 1980 data) were not sufficient to base a decision upon. We certainly concur with that conclusion and therefore, perhaps any further comments on that matter become moot.

In reflection, however, I was very especially concerned over the position taken by some of the board to the effect that 'Idaho Power's future development of the fisheries program in the Pahsimeroi River

COPIES PREPARED FOR ALL BOARD MEMBERS 12/7/81
DISTRIBUTED AT BOARD WORK SESSION ON 12/8/81

would be protected at all costs'. Even though my clients and I certainly support Idaho Power's right to make such an application and even though we believe that the record clearly shows that we have been instrumental in saving the program by our efforts in this matter, we are none-the-less offended by the obvious prejudice of some of the board members. For instance, I failed to notice that these same absolute protections were or would be considered for other pending applicants. Perhaps my concern is due to my own particular sensitivity about fairness and fair play (or the lack of it), but I feel that regardless of the personal preferences of any member, every effort should be made to refrain from such a public showing of such preferential treatment of one resource over another.

Again, let me point out that I make these comments in spite of the fact that we are all very much in favor of, and in support of, the application of Idaho Power. My clients have no particular objection to the application. Never-the-less, I must object to the obvious ease with which the board could break a leg to change the rules for Idaho Power. As I recall, not even a word of sympathy was offered the other pending applicants. I would say that the success of the board will much depend upon their reputation for equal handed play. As it stands now, I must caution you that the particular comment or position taken in that respect will not serve the board well in the future. It is a sore point in Challis today.

I would desire that the members take this as constructive criticism or in the alternative, if they feel it has no validity, they can disregard it as just so much discussion. It does, however, bring us to the nub of the problem, the River should be left open. It is obvious that none of us know what the future need for the water will be, whether by Idaho Power for the benefit of the fish, or by others.

Thank you for your time.

Very truly yours,

James R. Bennetts

JRB:dl

Pahsimeroi MSF Fish Docs

RECEIVED
NOV 25 1981
Department of Water Resources

11/22/81
Twinell DNR

Dear Mr. Hansen:

I'd like to express my support for the establishment of a minimum stream flow in the Pahsimeroi River. We need to protect the remaining steelhead and salmon runs in Idaho.

I live and work in Challis. I'd like to see the fish runs in the Salmon & Pahsimeroi River protected and expanded. In-stream flows must be established.

MICROFILMED

Please keep me informed of the progress of the in-stream flow application for the Pahsimeroi River. As a state of Idaho taxpayer, I'd like to see the state take this

for - ing action. My address is

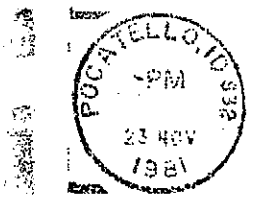
P.O. Box 215
Challis, Idaho
83226

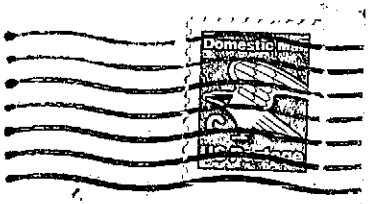
Thanks,

Clifford C. Mitchell

MICROFILMED

C. Mitchell
P.O. Box 215
Challis, Idaho
83226





M. Reed Hansen
Chairman
Idaho Water Resources Board
Statehouse
Boise, Idaho
83720

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
(208) 879-4488

RECEIVED
NOV 9 1981
Department of Water Resources

November 4, 1981

David R. Tuthill, Jr., P.E.
Supervisor, Water Allocation Section
State of Idaho
Department of Water Resources
Statehouse
Boise, Idaho 83720

Responded per telecon
11/13/81 DRT

Re: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045

Dear Mr. Tuthill:

Thank you very much for your letter of October 30, in regard to the above matter.

I would appreciate learning as early as possible what the direction or course of the hearing will be. I understand this is an informal meeting, substantially for the purpose of gathering information in regard to the issues surrounding the application. It would be most helpful for us, however, if we could be provided with any and all information pertaining to new issues or evidence that might be brought to light at the hearing. Obviously, we would be in a much better position to respond to the information if we have some advance knowledge of what the information might entail. Also, may we assume that there will be no transcript? If the Board rules in favor of further proceedings, we then assume there will be a further formal hearing as defined by I.C. 42-1503. Is this assumption correct?

Further, is the Board proceeding upon the application in its original form or has the application No. 73-7045 been amended or altered?

I suppose generally we would like to be informed as to the purposes of the meeting and any new concepts to be discussed so that we can avoid the type of situation that developed earlier.

Thank you for your patience and I will assure you that I will do the best I can to keep our presentation organized, informative and avoid argumentative confrontations. Obviously, I will not have total control over all members or participants who might wish to appear. Thank you.

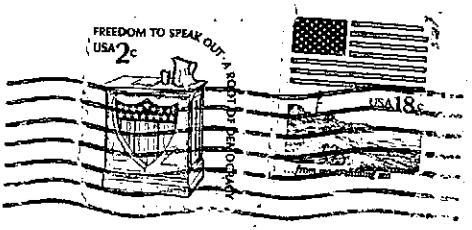
Very truly yours,

James R. Bennetts

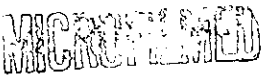
JRB:dl

MICROFILMED





/id R. Tuthill, Jr., P.E.
)ervisor, Water Allocation Section
.te of Idaho
)artment of Water Resources
atehouse
.se, Idaho 83720



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

November 12, 1981

RE: Minimum Stream Flow Application on the Pahsimeroi River No. 73-7045.

Dear Water Right Holder:

The Custer County records indicate that you are the owner of property adjacent to the Pahsimeroi River at some point between the mouth and a point seven miles upstream. Therefore you may be interested in the above referenced application, which calls for the establishment of a minimum stream flow on that reach of the Pahsimeroi River.

The Idaho Water Resource Board will be holding an informal public meeting regarding the application on Wednesday, November 18, 1981 at 1:00 P.M. at the Custer County Courthouse in Challis. The purpose of the meeting is to examine the issues brought forth at a hearing on the matter last year.

On behalf of the Chairman of the Board, I would like to invite you to attend the meeting. Please feel free to invite anyone that may have an interest in this matter.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

MICROFILMED

18

✓ Alton C. Pearson
Box 93
Ellis, Idaho 83235

✓ Dick Coleman
Box 5
Challis, Idaho 83226

✓ Jim Dowton
May, Idaho 83253

✓ Steve Amar
Ellis, Idaho 83235

✓ Emerson Lattimer
Ellis, Idaho 83235

✓ Matsuria Bros.
Ellis, Idaho 83235

✓ Debra Krystal
Ellis, Idaho 83235

✓ Charles Charlton
Ellis, Idaho 83235

✓ Bob Literal
Ellis, Idaho 83235

✓ Ford Zieglar
Ellis, Idaho 83235

✓ Jerry Corrigan
Ellis, Idaho 83235

✓ Tom Hamilton
Ellis, Idaho 83235

✓ Woodrow Conklin
Ellis, Idaho 83235

✓ Everet Cantlin
Ellis, Idaho 83235

✓ Gary Madson
Ellis, Idaho 83235

✓ A, M. Hatch & Sons
Ellis, Idaho 83235

✓ Duane Moen
Ellis, Idaho 83235

✓ Idaho Power Company
Pahsimeroi Hatchery
% Bob Moore
Box 85
Ellis, Idaho 83235

MICROFILMED

RIPARIAN OWNERS to the Strech of the Pahsimeroi River in App 73-7045. Determined by Id F&G personnel from Custer Co Courthouse Records on 11/10/81

Already notified = X
Sent Letter = ✓

✓ Alton C. Pearson ✓
Box 93 Ellis Id 83235

X Jack Furey ✓
Challis Id 83226

✓ Dick Coleman ✓
Box 5 Challis 83226

✓ Jim Dowton ✓
May Id 83253

✓ Steve Amar ✓
X Syd Dowton ✓
✓ Emerson Lattimer ✓
✓ Matsuria Bros. ✓
X Don Blatz ✓
✓ Debra Krystal ✓
✓ Charles Charlton ✓
X Daughn Higbee ✓
✓ Bob Literal ✓
✓ Ford Zieglar ✓
✓ Jerry Corrigan ✓
X Ray Ellis ✓
✓ Tom Hamilton ✓
✓ Woodrow Conklin ✓
✓ Everet Cantlin ✓

Ellis, Id 83235

✓ Gary Madson ✓

✗ Brad & Borg C.W. Welch ✓

✓ A.M. Hatch & Sons ✓

✓ Duane Moen ✓

} Ellis, Id 83235

✗ Tom Levandofske ✓
c/o Rapid River Hatchery
Riggins, Id 83549

✓ Id Power Co ✓
Pahsimeroi Hatchery
c/o Bob Moore
Box 85 Ellis Id 83235

DRAFT

47-7045

PAHSIMEROI RIVER MINIMUM STREAM FLOW

SUMMARY OF EVENTS

Date	Action
12/19/1979	Request received from Idaho Department of Fish & Game (IDFG).
12/19/1979	Application filed by IWRB.
06/12/19/1980	Application and hearing advertised by Custer Publishing Co.
07/09/1980	Hearing held in Challis.
08/30/1980	Hearing record closed.

ISSUES

1. The exact limits of the reach are not clear.

2. The relationship of the MSF to the Idaho Power Company fish propagation facility is not clear.

3. The amount of steelhead production from the Pahsimeroi River is not clear.

4. Increased flows diverted by irrigators in the spring may provide increased return flows in the river during summer and fall via underground storage.

5. Establishment of a MSF may in this case be contrary to the purpose of "protecting such waters from interstate diversion to other states", since it would enable waters of the Pahsimeroi to flow undiverted into our sister states.

6. The application may not meet the minimum criteria which states that it:

    a) Will not interfere with any existing water rights;
    b) Is in the public, as opposed to private, interest;
    c) Is necessary for the stated purposes of the MSF;
    d) Is the minimum flow and not the ideal flow; and
    e) Is capable of being maintained.

MICROFILMED

DEPARTMENT OF WATER RESOURCES

State of Idaho, Statehouse, Boise, Idaho 83720

Phone: 208-334-4440

FOR IMMEDIATE RELEASE

6 November, 1981

NEWS RELEASE

BOISE---An informal public meeting to review a minimum stream flow application on the Pahsimeroi River has been scheduled for 1 p.m. November 18 in the Custer County Courthouse, Challis, according to M. Reed Hansen, chairman of the Idaho Water Resource Board.

In December, 1979, the board filed the application for a variable monthly flow on the river, at the request of the Idaho Department of Fish and Game, which sought to protect the steelhead trout and chinook salmon. The application asks for a minimum flow from the mouth of the river to the fish ponds seven miles upstream.

In July, 1980, the board conducted a public meeting in Challis to get local comment on the proposed instream flow, said Hansen. However, this was before the board adopted its guidelines for handling minimum stream flow applications.

"Now that we have guidelines to follow, we would like to get more input on some of the issues raised at the first meeting last summer," Hansen said. "Depending on how the local people feel, the Idaho Water Resource Board may amend the instream flow application on the Pahsimeroi River or it could withdraw the filing altogether."

more

THIS MATERIAL IS MICROFILMED

Hansen stressed that the prior, vested water rights would be fully protected even if the instream flow right on the river is approved.

Anyone wishing to make any comment on this minimum stream flow application is encouraged to attend the meeting. Those who prefer to write may address their remarks to M. Reed Hansen, Chairman, Idaho Water Resource Board, Statehouse, Boise, ID 83720.

If the board decides to amend the application it originally filed, based on public input, the director of the Idaho Department of Water Resources, will schedule a formal public hearing in the area, said Hansen. This will allow residents to again make their wishes known on the filing. After this step, if the board does not withdraw its application, the filing then goes to the director for approval. If this is given, the instream flow application goes to the Idaho Legislature for review, said Hansen.

-30-

Kay Weaver
Information Specialist

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

November 9, 1981

RE: Minimium Stream Flow Application on the Pahsimeroi River
No. 73-7045

Dear Water Right Holder:

Our records indicate that you are the holder of a water right that diverts from the Pahsimeroi River between the mouth and a point seven miles upstream. Therefore you may be interested in the above referenced application, which calls for the establishment of a minimium stream flow on that reach of the Pahsimeroi River.

The Idaho Water Resource Board will be holding an informal public meeting regarding the application on Wednesday, November 18, 1981 at 1:00 p. m. at the Custer County Courthouse in Challis. The purpose of the meeting is to examine the issues brought forth at a hearing on the matter last year.

On behalf of the Chairman of the Board , I would like to invite you to attend the meeting. Please feel free to invite anyone that may have an interest in this matter.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Supervisor, Water Allocation Section

DRT:bl

MICROFILMED

Note: A copy of this letter was sent on 11/9/81 to each of the names & addresses attached except for nos. 2 and 7. DRT 11/9/81

LIST OF WATER RIGHT HOLDERS

1. Jack B. Furey
   P. O. Box 280
   Challis, Idaho 83226

2. Worth Boggeman (Sent previous letter)
   Challis, Idaho 83226

3. W. M. Conklin
   Ellis, Idaho 83235

4. Idaho Power Company
   P. O. Box 70
   Boise, Idaho 83707

5. E. L. Latimer
   P. O. Box 122
   May, Idaho 83253

6. Joe V. Higbee
   Ellis, Idaho 83235

7. IWRB (Sent Previous letter)

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

November 4, 1981

Representative Linden Bateman
Route 1, Box 442
Idaho Falls, Idaho 83401

RE: Minimum Stream Flows in Eastern Idaho.

Dear Representative Bateman:

The Idaho Water Resource Board has scheduled three informal public meetings in which you may be interested. The purpose of the meetings is to examine applications for minimum stream flows on the Pahsimeroi River, Birch Creek, and Henry's Fork of the Snake River. A schedule of times and locations for the meetings is attached.

The Idaho Water Resource Board is not required by Chapter 15, Title 42, Idaho Code, to conduct a public meeting regarding a minimum stream flow application. However, a number of state legislators have suggested that such a meeting be held by the Board in certain situations. On November 6, 1980, the Board adopted a set of guidelines that included a provision for holding an informal public meeting for each minimum stream flow application that appears to be controversial. The three public meetings have been scheduled pursuant to these guidelines.

The Idaho Department of Water Resources has already held formal hearings on the minimum stream flow applications for the Pahsimeroi River and Birch Creek. However, the Board feels that the controversial nature of these two applications merits an informal public meeting to review some of the many outstanding issues. No meeting has yet been held on the Henry's Fork application.

MICROFILMED

On behalf of the Chairman of the Idaho Water Resource Board, I would like to invite you to attend any or all of the public meetings.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

MICROFILMED

Pahsimeroi River (73-7045)

General Location:	From the confluence with the Salmon River upstream about 7 miles.
Applicant:	Idaho Water Resource Board.
Requestor:	Idaho Department of Fish and Game.
Location of Meeting:	Custer County Courthouse, Challis, Idaho.
Time of Meeting:	1:00 P.M., Wednesday, November 18, 1981.
Issues:	Determine local sentiment; review numerous objections raised by opponents; review new data collected by Idaho Department of Fish and Game; consider modification of the application.

Birch Creek (32-7103)

General Location:	From John Day Rest Area downstream about 8 miles.
Applicant:	Idaho Water Resource Board.
Requestor:	U.S. Bureau of Land Management.
Location of Meeting:	Lions Club, Dubois, Idaho.
Time of Meeting:	9:00 A.M., Thursday November 19, 1981.
Issues:	Determine local sentiment; review appropriate boundaries and rates of flow.

Henry's Fork (21-7282)

General Location:	Through Box Canyon and Harriman Ranch State Park and over Upper and Lower Mesa Falls.
Applicant:	Idaho Water Resource Board.
Requestor:	Idaho Department of Parks & Recreation.
Location of Meeting:	Freemont County Courthouse, St. Anthony.
Time of Meeting:	3:00 P.M., Thursday, November 19, 1981.
Issues:	Determine local sentiment and determine the extent of conflict.

MICROFILMED

1. <gender>Senator
<first>Israel
<last>Merrill
<where>581 N. Stout. St.
Blackfoot, Idaho 83221
<>

2. <gender>Representative
<first>Raymond
<last>Parks
<where>Route 4, Box 238
Blackfoot, Idaho 83221
<>

3. <gender>Representative
<first>Darwin
<last>Young
<where>Route 5, Box 115
Blackfoot, Idaho 83221
<>

4. <gender>Senator
<first>Mark
<last>Ricks
<where>Route 4, Box 173
Rexburg, Idaho 83440
<>

5. <gender>Representative
<first>Melvin
<last>Hammond
<where>149 Elm Avenue
Rexburg, Idaho 83440
<>

6. <gender>Representative
<first>Rich
<last>Orme
<where>Box 32
St. Anthony, Idaho 83445
<>

7. <gender>Senator
<first>Marsden
<last>Williams
<where>1950 Carmel Drive
Idaho Falls, Idaho 83401
<>

8. <gender>Representative
<first>Kurt
<last>Johnson
<where>Route 6, Box 407
Idaho Falls, Idaho 83401

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<>

9. <gender>Representative
<first>Martin
<last>Trillhasse
<where>Route 4, Box 226
Idaho Falls, Idaho 83401
<>

10. <gender>Senator
<first>Dane
<last>Watkins
<where>2975 Fieldstream Lane
Idaho Falls, Idaho 83401
<>

11. <gender>Representative
<first>Elaine
<last>Kearnes
<where>3040 Gustafson Circle
Idaho Falls, Idaho 83401
<>

12. <gender>Representative
<first>Gary
<last>Paxman
<where>719 E. 16th
Idaho Falls, Idaho 83401
<>

13. <gender>Senator
<first>Walter
<last>Yarbrough
<where>Box 216, Route B
Grand View, Idaho 83624
<>

14. <gender>Representative
<first>Gary
<last>Montgomery
<where>737 N. 7th St.
Boise, Idaho 83702
<>

15. <gender>Representative
<first>Lyman
<last>Winchester
<where>Route 1
Kuna, Idaho 83634
<>

16. <gender>Senator
<first>Vearl
<last>Crystal

16. <where>Route 6, box 232
Idaho Falls, Idaho 83401
<>

17. <gender>Representative
<first>Ray
<last>Infanger
<where>Route 1, Box 174
Salmon, Idaho 83467
<>

18. <gender>Representative
<first>Wayne
<last>Tibbitts
<where>Lorenzo Route, Box 212
Rigby, Idaho 83442
<>

19. <gender>Senator
<first>John
<last>Peavey
<where>P. O. Box 88
Carey, Idaho 83320
<>

20. <gender>Representative
<first>Steve
<last>Antone
<where>1141 Link Street
Rupert, Idaho 83350
<>

21. <gender>Representative
<first>Mack
<last>Leibaur
<where>Route 1, Box 142
Paul, Idaho 83347
<>

22. <gender>Senator
<first>Wilson
<last>Steen
<where>P. O. Drawer B
Glenns Ferry, Idaho 83623
<>

23. <gender>Representative
<first>Dan
<last>Kelly
<where>930 N. 10th E.
Mtn. Home, Idaho 83647
<>

24. <gender>Senator

24. <first>William
<last>Floyd
<where>5605 Rimrock Dr.
Idaho Falls, Idaho 83401
<>

25. <gender>Representative
<first>Linden
<last>Bateman
<where>Route 1, Box 442
Idaho Falls, Idaho 83401
<>

26. <gender>Representative
<first>John
<last>Sessions
<where>Box 10, 414 N. Main
Driggs, Idaho 83422
<>

27. <gender>Senator
<first>Reed
<last>Budge
<where>231 S. 1st E.
Soda Springs, Idaho 83276
<>

28. <gender>Representative
<first>Robert
<last>Geddes
<where>Route 3, Box 107
Preston, Idaho 83263
<>

29. <gender>Representative
<first>Eugene
<last>Stucki
<where>31 W. 2nd So.
Paris, Idaho 83261
<>

30. <gender>Senator
<first>Bert
<last>Marley
<where>Box 32
McCammon, Idaho 83250
<>

<gender>Representative
<first>Myron
<last>Jones
<where>311 N. 300 W.
Malad, Idaho 83252
<>

32. <gender>Representative
<first>Gene
<last>Edwards
<where>Route 1, Box 188
Malad, Idaho 83252
<>

33. <gender>Senator
<first>Gary
<last>Gould
<where>541 S. 7th
Pocatello, Idaho 83201
<>

34. <gender>Representative
<first>Ralph
<last>Lacy
<where>126 S. 15th
Pocatello, Idaho 83201
<>

35. <gender>Representative
<first>Patricia
<last>McDermott
<where>P. O. Box 3
Pocatello, Idaho 83201
<>

October 29, 1981

Jimmie S. Dowton
May,
Idaho 83253

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Dowton:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Ray Ellis
Ellis,
Idaho 83235

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Ellis:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Don O'Neal
May,
Idaho 83253

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. O'Neal:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

John Bruggenkamp
May,
Idaho 83253

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Bruggenkamp:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Vaughn Higbee
Ellis,
Idaho 83235

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Higbee:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Louie Demuh
Salmon,
Idaho 83467

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Demuh:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Tom Levendofske
Ellis,
Idaho 83235

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Levendofske:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Don Blatz
Ellis,
Idaho 83235

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Blatz:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

John Waite
Box 1944,
Salmon, Idaho 83467

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Waite:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Fidele Amar
Ellis,
Idaho 83235

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Amar:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

C. W. Welch
Box 737
Challis, Idaho 83226

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Welch:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section



October 29, 1981

Kent Ball
Box 1336
Salmon, Idaho 83467

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Ball:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Worth Boggeman
Ellis,
Idaho 83235

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Boggeman:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Nadine Chaffer
May,
Idaho 83253

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Ms. Chaffer:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

MICROFILMED

October 29, 1981

Jim Bob Infanger
Salmon,
Idaho 83467

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Infanger:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

MICROFILMED

October 29, 1981

Mary Boggeman
Ellis,
Idaho 83235

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Ms. Boggeman:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Charles Kesl (1980 WATERMASTER)
May,
Idaho 83253

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Kesl:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

MICROFILMED

October 29, 1981

Ralph Hatch
Ellis,
Idaho 83235

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Hatch:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

MICROFILMED

October 29, 1981

James N. Hawkins
Challis,
Idaho 83226

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Hawkins:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Ray Horn
May,
Idaho 83253

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Horn:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

October 29, 1981

Syd Dowton
Salmon,
Idaho 83467

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Dowton:

Last year you expressed an interest in the above referenced matter by attending the hearing held by the Idaho Department of Water Resources on July 9, 1980 in Challis. As you recall, the issue of establishing a minimum stream flow on the Pahsimeroi River is controversial indeed.

Before the Director of the Department of Water Resources makes a decision on the application, the Idaho Water Resource Board wishes to re-examine the issues. An informal public meeting on this matter will be held on November 18, 1981 at 1:00 P.M. in the Custer County Courthouse in Challis.

The meeting will be conducted by members of the Idaho Water Resource Board. On behalf of the Board I would like to invite you to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

November 6, 1981

Mr. James Martini
Watermaster, Water District 73
May, ID 83253

RE: Minimium Stream Flow Application on the Pahsimeroi River

Dear Mr. Martini:

As the Watermaster of the Water District 73 you may be interested in an informal public meeting to be held by the Idaho Resource Board concerning the above referenced application. The meeting will be at the Custer County Courthouse at 1:00 p. m. on Wednesday, November 18, 1981.

The purpose of the meeting is to clarify some issues that were raised at a formal hearing on the application last year. Your knowledge about the operation of the river may shed some light on these issues, so on behalf of the Chairman of the Idaho Resource Board I would like to invite you to attend the meeting. Please feel free to invite any other individuals that you think may be interested.

Sincerely,

David R. Tuthill

DAVID R. TUTHILL, JR., P. E.
Supervisor, Water Allocation Section

DRT:bl

MICROFILMED

October 30, 1981

Mr. James R. Bennetts
Counsel for Water District 73, et.al.
P. O. Box 36
Challis, Idaho 83226

RE: Minimum Stream Flow Application on the Pahsimeroi River, No. 73-7045.

Dear Mr. Bennetts:

Due to the many controversial issues still outstanding on the above referenced matter, the Idaho Water Resource Board has decided to hold an informal public meeting to gather informatinn to determine if the Board wishes to continue its sponsorship of the application in its current format. In particular the Board hopes to examine the issues identified in your Comments and Brief dated Auguet 7, 1980.

The meeting will be held at the Custer County Courthouse in Challis on Wednesday November 18, 1981 at 1:00 P.M. As a principal party for the opposition to approval of the application we hope that you will be able to attend. On behalf of the Board I am also notifying each individual that attended the initial hearing. Please invite any other individuals that you believe have an interest in the matter.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

ATTENDANCE ROSTER

PAHSIMEROI MSF HEARING

SEP 24, 1982

NAME	ADDRESS	REPRESENTING	DO YOU WISH TO PRESNT TESTIMONY?
Reed Hansen	Ellis	myself	yes
Don Blatt	Ellis	own	
Golden Westergard	Challis	Ranches	
Vera Sanderson	Ellis	Housewife	
Ray Langley	Salmon	State Legislature	

Board Members:

Reed Hansen

Gene Gray

Scott Reed

Franklin Jones

- Ron Carlson
- Ken Dunn
- Dave Tuthill

MICROFILMED

ATTENDANCE ROSTER

PAHSIMEROI RIVER MSF HEARING

SEP 24, 1982

NAME	ADDRESS	REPRESENTING	DO YOU WISH TO PRESENT TESTIMONY
Ray Ellis	Ellis	District 73	yes
Duane Moen	May	"	
Syd Dawson	Salmon	"	no
Jim Beckett	Challis		only
C. W. Welch	Challis	IF&G	1/c
Rance Bare	Idaho Falls	Ellsworth Engr.	
Jimmie L Dawson	May Idaho	Ranching	
Tom Reinecker	Ido. Falls	IDFG	no
Larry Winner	Box 70 Boise 83707	Idaho Power Co	Yes
Mel Reingold	Bx 1336 Salmon	IDF&G	
Bob Moore	BX 85, Ellis	IDF&G	

MICROFILMED

ATTENDANCE ROSTER

NAME	ADDRESS	REPRESENTING
Fineas Hughbanks	MAY, Id.	Self
Clara E. Dowton	Salmon, Ida Box 542	
Maria Elena Dowton	- May, Idaho	- Self

MICROFILMED

MEMORANDUM

November 17, 1982

TO: Dave Tuthill DRT

FROM: Phil Rassier

RE: Pahsimeroi Minimum Flow Appl. 73-7045

You have requested my review of the comments and brief submitted in the above-referenced matter by attorney James Bennetts on behalf of various clients.

Mr. Bennetts' brief is primarily addressed to the issue of whether it would be proper or permissible to subordinate the Board's minimum stream flow application to two junior Idaho Power water right applications for fish hatchery purposes.

Mr. Bennetts argues, first, that to subordinate the minimum flow right to the junior hatchery rights would, in effect, amount to a change in priority date for the minimum flow right making it also junior to any other intervening applications which may have been filed. It is my opinion that the effect of a subordination provision would only benefit the right or rights in favor of which the subordination is made. At any rate, it is my understanding in this particular instance that no intervening applications were filed between the Board's and the Idaho Power's filings.

Second, Mr. Bennetts addresses a proposal that the minimum flow permit be granted upon the condition that "Idaho Power's rights be recognized superior to minimum flow." This proposal apparently refers to placing a condition upon the junior permits of Idaho Power stating that the rights are superior to the senior priority rights of the Board. It is suggested that any condition which limits the minimum flow right should appear as a condition on the Board's permit. To do otherwise will invite uncertainty and confusion.

Mr. Bennetts next questions whether the Board has the authority to grant away part of a minimum flow right in favor of Idaho Power. It must be emphasized that the Board does not yet hold a minimum flow right in this particular case. What is at issue are the conditions upon which the department might grant the Board's application for a water right.

MICROFILMED

Mr. Bennetts argues further that the minimum flow right must be for public benefit and not for the private benefit of Idaho Power. There is no question but that the minimum flow right, to whatever extent granted, is to be for the benefit of the public. The issue raised by Idaho Power's testimony is whether the permit for the Board's minimum flow right should be issued so as not to affect the junior filings by Idaho Power. To whatever extent the Board's application for permit is approved, either with or without a subordination to junior filings, the permit will be held for the public benefit.

Phillip J. Rassier

PJR:dc

MICROFILMED

INTER-DEPARTMENT MEMO — 1

FROM Dave Tuthill

DATE Oct 28, 1982

TO Glen → Phil

SUBJECT

At the minimum stream flow (msf) hearing for the Pahsimeroi River (73-7045) on Sept 24, 1982 a question arose regarding the potential to subordinate the msf app to two subsequent Id Power Co. apps. James R Bennetts' brief on this matter is attached. I suggest that Phil Rassier review this concept — Phil can learn the status of the rts & their relative locations by contacting me.

Dave

SIGNATURE

TO: DIRECTOR
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

FROM: JAMES R. BENNETTS
Attorney at Law
P. O. Box 36
Challis, Idaho 83226
Telephone: (208) 879-4488

RE: APPLICATION No. 73-7045
Minimum Stream Flow

COMMENTS AND BRIEF:
Offered on Behalf of:

Water District No. 73 for the Pahsimeroi River, State of Idaho, and ROY ELLIS, Individually and as a member of Water District No. 73, WORTH BOGGEMAN and JACK FUREY, individually, and DUANE MOEN, JOE SCOBLE, PRESTON DIXON, FRANK UNQUERA, JIM DOWTON, JOHN BRUGGENKAMP, GEORGE WHITWORTH, GILMAN MARTINY, DON M. O'NEAL and E. L. LATIMER, individually as well as members of Water District No. 73 for Idaho, CUSTER COUNTY RESOURCE AND ECONOMIC STABILIZATION COMMITTEE, and TRI-COUNTY CATTLEMEN'S ASSOCIATION, and others.

For the sake of brevity, I will refer to the record and prior briefs rather than review the history of this matter at length at this point.

Our argument that Idaho Power's 1981 applications could, at times, be in violation of the minimum flows if the requested minimums are granted, is apparently not a shallow one. This is a vital point because given these unique circumstances even a slight encroachment by Idaho Power on the minimum flows would jeopardize its entire 10 CFS (or 40 CFS) 1981 right(s). It follows, for example, that once the minimum flow at the Upper Hatchery Outlet drops below 45 CFS, all 10 CFS of the 1981 Idaho Power right will have to be put over the diversion and down the river in order to avoid loss of any of those waters previously committed to minimum flow. The same would be true, of course, at the lower diversion in the event of short flows at that location.

However, the obvious point is that the flows cannot be maintained and the application must be denied.

Rance Bare testified that in his best judgment, the flows could not be maintained. Even Tim Cochaner of the Idaho Fish and Game Department could at best testify that he believed the flows could be maintained most of the time. Apparently, Idaho

MICROFILMED

Power shares our concern that the flows may not (or cannot) be maintained or it would not be requesting preferential treatment via subordination of minimum flows to its later rights. Additionally, flow measurements submitted for May 25, 1982, show no more than 44.91 CFS on the upper reach. There was testimony that the river was substantially lower prior to that date. Even the data submitted by the Fish and Game Department shows that the May measurement for 1981 was higher than normal or average, yet only slightly above the minimum requested (See our Exhibit "C"). It seems to have been fairly generally admitted that flow figures taken only occasionally over one season are not sufficient to support a finding - any finding. Flow measurements taken by the Department of Water Resources on May 25th, 1971, show flows of only 42 CFS at Dowton Lane (See, A RECONNAISSANCE OF THE PAHSIMEROI RIVER, Page 57, our Exhibit "A"). The river would normally be rising that late in May (See testimony of both Sid and Jim Dowton). The flow data used by the Fish and Game Department indicates other months to be equally critical at various points on the selected reach of the river. It should also be pointed out that in Idaho a junior appropriator is under the added burden of establishing by clear and convincing evidence that his use will not injure prior users. Moe v Harger, 10 Idaho, 302, (1904); Silkey v Tiegs, 54 Idaho, 126, (1934).

Assuming, for the purpose of argument, that the application were to be granted, many technical problems still exist even with the subordination clause (or conditional use clause) in favor of Idaho Power. Therefore, let's more closely examine the Idaho Power subordination request. First, Idaho Power asked to have the minimum flow application subordinated to its rights. Subordination would effectively set the priority of the minimum flow license to the date subsequent to the Idaho Power Application Nos. 73-7051 and 73-7055. If this direction is taken, other intervening applicants (if any) ahead of Idaho Power, whether up or down river, would have to be recognized under the theory of prior in time, prior in right, Application of Boyer, 73 Idaho, 152, (1952). There is nothing wrong perhaps with recognizing

MICROFILMED

other users up or down the river as being prior in right, but that appears to be the furtherest thing from what the Proponents intend. Secondly, it was our understanding that Idaho Power suggested that the minimum flow be granted upon the condition that Idaho Power's rights be recognized superior to minimum flow. The effect of such an action would advance Idaho Power's rights ahead of the minimum flow application date of December 12, 1979. This would be an attempt by the Water Resources Board to jump Idaho Power's priority ahead of its own filing (perhaps even over other users). Also, by such action, we would permit the Water Resources Board to attempt to create rights even superior to its own. In any event, this would amount to an unlawful advancement in priority for Idaho Power.

In November, 1981, the Water Board informally expressed its desire to protect the Idaho Power permit at any cost. It now appears that this is indeed their primary goal. I suppose we are being told that minimum flows are absolutely necessary and must be fully enforced unless, of course, they interfere with the Idaho Power permits. It seems obvious to us that such action amounts to a sheltering of the Idaho Power permits under the Water Board's minimum flow water right. Regardless of how this is accomplished technically, it appears to be an obvious attempt by the Proponents to save its water and drink it too. Again, if the Resources Board wishes to view this matter as a grant of a portion of its right to Idaho Power, then it seems clear that it must realize a reduction of its own right to the extent of that grant. That is to say that they cannot give something without losing something in the process. If, in fact, this is handled as a granting of the minimum flow water right in favor of Idaho Power, then this brings up another interesting concept. If, in fact, a minimum flow right is a right held by the public as Idaho Code 42-1501 suggests, does the Water Board have the authority to grant these rights to a private interest on behalf of the public? We think it does not.

The central point, however, is that under the criteria of the minimum flow legislation, the minimum flow must be for the public and not a private purpose (45-1503 (b.(2nd)). The

sheltering of Idaho Power and its investment by the minimum flow license could amount to nothing less than protecting private interests. Mr. Wimer testified on September 24, 1982, to the effect that subordination or a conditional permit would be absolutely necessary to protect Idaho Power's present investment. In short, the requested action would amount to protecting or sheltering Idaho Power's investment through the minimum stream flow request. This violates the criteria set forth in the above cited statute. It has been made very clear that the Water Resources Board's highest concern has to do with the survival of the Idaho Power Hatchery. For the Proponents, this has now become an issue paramount even to the minimum stream flow concept itself. If protection of Idaho Power's obligations to mitigate prior fish losses is not in the "private interest" as compared with "public interest", it is hard to imagine what would constitute a violation of the criteria established, especially when it now appears that Idaho Power's later rights are the single most important concern to be protected under the minimum flow application. We know of no law directly in point, but it appears to us that if Idaho Power has invested unwisely, even as a result of encouragement from a state agency, this is not a problem to be solved through minimum stream flow. We seriously suggest that the primary objective as expressed by the Board through its statements and actions is to protect the Idaho Power facility and its ability to function. This certainly must be the sort of misuse or abuse invisioned by the legislature when it adopted the standard imposed within the statute. The logical way to solve the matter is the method suggested by us from the first. The application should be withdrawn or denied and the Fish and Game Department can come back when it has the facts and figures to support its requests. In so doing, Idaho Power will automatically have rights superior to the minimum flow request.

If nothing else has been made clear, one point certainly has been set in stone. The Fish and Game Department, Idaho Power and the Water Resources Board have been acting in concert, but with total lack of co-ordination. From the first we

have contended that this action has placed the future of the hatcheries in serious jeopardy and nothing has really changed in regard to that point to date.

We again specifically refer to the testimony and briefs on file herein and therefor limit our comments to the above points as suggested by the hearings officer.

DATED: October 13, 1982. Respectfully,

James R. Bennetts, Attorney at Law
Pahsimeroi Water Users

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing COMMENTS AND BRIEF to the following:

David J. Barber
Deputy Attorney General
c/o P. O. Box 25
Boise, Idaho 83707

Scott W. Reed
Attorney at Law
P. O. Box A
Coeur d'Alene, Idaho 83814

Kent Foster
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. Box 129
Idaho Falls, Idaho 83401

by placing the same in the United States mail in an addressed envelope with postage prepaid, this 14th day of October, 1982.

RECEIVED
OCT 15 1982
Department of Water Resources

TO: DIRECTOR
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

FROM: JAMES R. BENNETTS
Attorney at Law
P. O. Box 36
Challis, Idaho 83226
Telephone: (208) 879-4488

RE: APPLICATION No. 73-7045
Minimum Stream Flow

COMMENTS AND BRIEF:
Offered on Behalf of:

Water District No. 73 for the Pahsimeroi River, State of Idaho, and ROY ELLIS, Individually and as a member of Water District No. 73, WORTH BOGGEMAN and JACK FUREY, individually, and DUANE MOEN, JOE SCOBLE, PRESTON DIXON, FRANK UNQUERA, JIM DOWTON, JOHN BRUGGENKAMP, GEORGE WHITWORTH, GILMAN MARTINY, DON M. O'NEAL and E. L. LATIMER, individually as well as members of Water District No. 73 for Idaho, CUSTER COUNTY RESOURCE AND ECONOMIC STABILIZATION COMMITTEE, and TRI-COUNTY CATTLEMEN'S ASSOCIATION, and others.

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MICROFILMED

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USER MICROFILM

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sheltering of Idaho Power and its investment by the minimum flow license could amount to nothing less than protecting private interests. Mr. Wimer testified on September 24, 1982, to the effect that subordination or a conditional permit would be absolutely necessary to protect Idaho Power's present investment. In short, the requested action would amount to protecting or sheltering Idaho Power's investment through the minimum stream flow request. This violates the criteria set forth in the above cited statute. It has been made very clear that the Water Resources Board's highest concern has to do with the survival of the Idaho Power Hatchery. For the Proponents, this has now become an issue paramount even to the minimum stream flow concept itself. If protection of Idaho Power's obligations to mitigate prior fish losses is not in the "private interest" as compared with "public interest", it is hard to imagine what would constitute a violation of the criteria established, especially when it now appears that Idaho Power's later rights are the single most important concern to be protected under the minimum flow application. We know of no law directly in point, but it appears to us that if Idaho Power has invested unwisely, even as a result of encouragement from a state agency, this is not a problem to be solved through minimum stream flow. We seriously suggest that the primary objective as expressed by the Board through its statements and actions is to protect the Idaho Power facility and its ability to function. This certainly must be the sort of misuse or abuse invisioned by the legislature when it adopted the standard imposed within the statute. The logical way to solve the matter is the method suggested by us from the first. The application should be withdrawn or denied and the Fish and Game Department can come back when it has the facts and figures to support its requests. In so doing, Idaho Power will automatically have rights superior to the minimum flow request.

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have contended that this action has placed the future of the hatcheries in serious jeopardy and nothing has really changed in regard to that point to date.

We again specifically refer to the testimony and briefs on file herein and therefor limit our comments to the above points as suggested by the hearings officer.

DATED: October 13, 1982. Respectfully,

James R. Bennetts, Attorney at Law
Pahsimeroi Water Users

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing COMMENTS AND BRIEF to the following:

David J. Barber
Deputy Attorney General
c/o P. O. Box 25
Boise, Idaho 83707

Scott W. Reed
Attorney at Law
P. O. Box A
Coeur d'Alene, Idaho 83814

Kent Foster
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. Box 129
Idaho Falls, Idaho 83401

by placing the same in the United States mail in an addressed envelope with postage prepaid, this 14th day of October, 1982.

Oct. 8. 81

C. W.
[redacted] POMEROY
BOX 1765
KETCHUM, IDAHO 83340

RECEIVED
OCT 13 1982
Department of Water Resources

Kenneth Dunn.

I have enjoyed both the Henry's Fork & Pahsimero River a lot for the last eight years, & would hate to see damage done to these rivers

I support the minimum flow in both cases, the enjoyment & money from the fishermen, for out ways and reasons for a small-scale hydro project.

Please support the minimum flow

thankyou

C. W. Pomeroy

RECEIVED

Dave

OFFICE OF THE PUBLIC DEFENDER

ADA COUNTY, IDAHO

RECEIVED
OCT 13 1982
Department of Water Resources

303 W. Bannock
Boise, Idaho 83702
Telephone (208) 343-6466
(208) 336-5460

PUBLIC DEFENDER
Klaus Wiebe
CHIEF DEPUTY
Rolf M. Kehne
SENIOR TRIAL ATTORNEYS
Alan E. Trimming
Laird B. Stone
TRIAL ATTORNEYS
August H. Cahill, Jr.
Edward B. Odessey
Jill D. Kirshner
Bruce S. Bistline
Richard D. Toothman
CHIEF APPELLATE DEPUTY
David Z. Nevin

October 12, 1982

Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Dear Mr. Dunn:

I strongly support the minimum stream flow applications of the Idaho Department of Parks and Recreation for the Henry's Fork of the Snake and the Pahsimeroi River.

I believe the applications should be granted to protect important wildlife habitats, fisheries and aesthetic values. I urge the Department to grant the applications.

Sincerely,

David Z. Nevin

DZN/ds

MICROFILMED

Bill Leavell
P.O. Box 2338
Salmon, Id. 83467

9/~~30~~/82

RECEIVED
OCT 4 1982
Department of Water Resources

Kenneth Dunn
Dept. of Water Resources
Statehouse
Boise, Id. 83720

Dear Sir:

Without the Pahsimeroi minimum stream flow, the hatchery produced Salmon steelhead run could literally "dry-up." For this reason the Salmon Chapter of the Idaho Conservation League would like to go on record in support of the Idaho Fish & Game's Pahsimeroi river minimum flow applications.

During the current recession, tourism has been the only bright spot in Salmon's economy. Steelhead fishing extends the tourism season at least four months when the fall & spring runs are considered.

To deny the minimum flow could nip this blossoming industry at the bud.

Thank-you for the opportunity for comment.

Sincerely yours,
Bill Leavell

October 1, 1982

Mr. James R. Bennetts
Attorney at Law
P. O. Box 36
Challis, Idaho 83226

Dear Mr. Bennetts:

Please find enclosed per your request copies of Applications For Permit Nos. 73-7051 and 73-7055 in the name of Idaho Power Company. These are the only water rights on the Pahsimeroi River within the minimum flow reach with dates of priority later in time than the IWRB filing.

Eight water right Claims that represent diversions within the proposed minimum flow reach have been filed since the IWRB filing was made on December 12, 1979. However, all of these Claims indicate dates of priority prior to 1971 so they represent water rights that are claimed to be prior in right to the minimum stream flow. Per your request, however, we have copied the claims and they are enclosed.

Please remit $6.00 for the enclosed copies.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

JAMES R. BENNETTS
ATTORNEY AT LAW
P. O. BOX 36
CHALLIS, IDAHO 83226
(208) 879-4488

RECEIVED
SEP 29 1982
Department of Water Resources

September 27, 1982

David R. Tuthill, Jr.
Supervisor, Water Allocation Section
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Pahsimeroi River Water

Dear David:

Would you please send me information in respect to the data of the latest Idaho Power application on the Pahsimeroi. Also, I would appreciate information pertaining to the Higbee permit (and perhaps others) which have been submitted subsequent in time to the minimum stream flow. I realize that you had this information at the informal hearing last year but I do not believe I received a copy of it. Please either give me a call or drop the material in the mail.

Thank you.

Very truly yours,

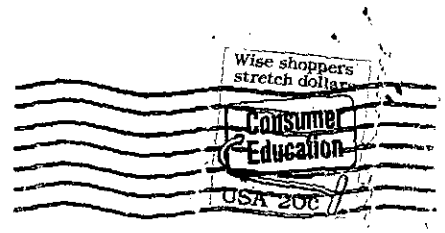
James R. Bennetts

JRB:dl

DENIED MICROFILMED

JAMES R. BENNETTS
ATTORNEY AT LAW
CHALLIS, IDAHO 83226





David R. Tuthill, Jr.
Supervisor, Water Allocation Section
Department of Water Resources
Statehouse
Boise, Idaho 83720

JW CUSTOM

FINEST QUALITY CUSTOM-MADE RODS – FLIES – TACKLE
FISHING OUTFITTER & GUIDE

JOHN WAITE
756-4192
WEEKDAYS

BOX 1944
SALMON, IDAHO 83467

RECEIVED
OCT 4 1982
Department of Water Resources

NOT Tuth.'11

October 1, 1982

Idaho Dept. of Water Resources
Statehouse
Boise, Idaho 83720

Attn: Scott Reed

Gentlemen:

I am a fishing guide and operate a tackle shop in Salmon, Idaho. I was guiding on September 24th, the date of the hearing concerning water appropriation on the Pahsimeroi River. I did attend and testify at the initial hearing.

My position is unchanged. I must support our anadromous and resident fish populations however possible. I have witnessed the Lemhi River as it was dried up completely in the lower reaches by ranchers exercising their water rights without regard to the fish populations. The Fish and Game people must have equal and sufficient rights to protect the fish in drought years for all the people of Idaho. Sufficient water must also be available for spawning activities.

I am an Idaho native and grew up on an irrigated farm and ranch operation. In addition, I was an agricultural banker servicing the Pahsimeroi Valley. Farmers and ranchers take the water they need to irrigate their crops most often in excess of their legal rights and to hell with fish.

The fish resources in question currently dwarf any economic value of the irrigated land in question and will continue to generate increasing income for the state and the people of Idaho.

I support the Fish and Game proposal.

Sincerely,

John M. Waite

JMW:kw

JAMES R. BENNETTS
ATTORNEY AT LAW
CHALLIS, IDAHO 83226





David R. Tuthill, Jr.
Supervisor, Water Allocation Section
Department of Water Resources
Statehouse
Boise, Idaho 83720

Pahsimeroi River

Challis

24 Sep 1982 9:00 Am

NOTES - D. Tuthill

Full Parties

IWRB - Scott Reed

F & G - David Barber

Watermasters - Jim Bennetts

IDWR Staff Presentation

- D. TUTHILL

IWRB Presentation

- Reed Hansen

Read Boards statement

ID Dept of F & G

- Mel Reinecker - Salmon Fishery Biologist for 20 years

Exhibit 10 - Updates Exhibit 1

Exhibit 11 Cert Doc. Loss of Fisheries

Exhibit 12

Exhibit 13

Exhibit 14 Certified Doc. Water Temperatures

Exhibit 15 > Weather Data Cert copies

Exhibit 16

Exhibit 17

- Kent Ball - Fisheries Biologist 11yrs +

Measurements were made in 1981

Exhibit 18 - 1981 Pahsimeroi Flow Measurements

Exhibit 19 - Map of measurements

MICROFILMED

Kent Ball (cont)

Exhibit 18 #14 (cont) Estimates accuracy at 10%

- Butch Welch Senior Cons Off for 3½ yrs
  Patrol area includes Pahsimeroi R.
  Other fishermen 25-35 times/yr. Makes 100 trips a year the
  Rainbow, Cutthroat, Eastern Brook, Dolly Varden
  Catch Rates - Excellent for Rainbow to 3½ pounds
- Bob Moore IDFG Supt of Hatchery fac, Pah. Site.
  300' x 30' x 4' Fish Rearing Pond (2) at the Fish Rearing site
  - 1 mile from the outflow of the fish egg-taking facility to the confluence with the Salmon.

- Tim Cochnauer IF&G
  - Doctorate student at U of I

Exhibit 20 & 21

His data was collected in 1978

Steps of Min Flow ident

1. Identify fish species
2. 1" life History phase
   (Resident - all year
   Anadromous - Juveniles & Pre spawn, spawners egg)
3. Make on-site inspection to identify typical cross sections
4. a) Lower hatchery site (1978)
   b) Upper hatchery site (1982) just upstream of outflow (outside of WSE area)

5. Collect discharge parameters at a min of 4 transects at each study site
6. Predict via computer model a range of depths & velocities
7. Draw habitat preference curves - input data into computer model. Final value = 1 habitat unit.

Lunch recess

- Larry Wimer - Id Power Co - Fishery Biologist

Requests that the NSF be subordinated to the 2 Id Power pending apps

Tape 3 side 1

Mr Bennetts

- Jim Dowton

Exhibit B - River measurements made May 25

1: Just below upper facilities

2: Big spring

3: Head of Furey canal

Many acres of irrigation have been added during the 50's, 60's & 70's. Some from wells: some from the river

Good water during the past 3 years

Irrigators take more than 1" per acre if there is water available.

Tape 3 side 2 - Syd Dowton

- Rance Bare

Consulting Eng w/ Ellsworth Engineering

CE. & M.S.

Exhibit A Water Info Bulletin No. 31

Soil is "White Knob" - limited carrying capacity

This soil type requires frequent irrigation

- Rance Bare (Cont'd.)
  Recommends a continuing monitoring system
  Not enough data to insure flows have been maintained
  Exhibit "E" - Flow chart (Data is plotted from Kent Ball's data

- Roy Ellis
  - Requests rejection of MSF
    1. Not all rights have been recorded yet
    2. More spring flow info should be made available

Tape 4

- Wynn
  Corrected a statement

Record will be kept open until Oct 1.
Mr. Bennetts: Special privledge for Id Power would be in violation of 45-1503 (B). He has 20 days to submit a brief on this matter. Fish & Game will respond within 15 days. IWRB will not further respond.

MSF NOTES
D. TUTHILL
PAHSIMEROI RIVER
73-7045

- On December 11, 1979, the IWRB received a request from the Idaho Department of Fish and Game for a minimum stream flow on the Pahsimeroi River.

- This request was considered by the IWRB on December 19, 1979, and on that day the Board filed an application for MSF with the IDWR.

- Copies of the application were sent to the State Departments of Fish & Game, Health & Welfare, and Parks and Recreation.

- A public hearing regarding the application was duly advertised and held on July 9, 1980. As a result of the hearing the IWRB asked the Director of the IDWR to delay action on the application to allow further time for them consideration of the application.

- Based on results of this and other minimum stream flow applications, the IWRB reviewed their procedures and adopted a set of "Guidelines" on November 6, 1980.

- One provision of the guidelines is that the IWRB may choose to hold an informal public meeting to solicit public comments to determine local public interest regarding a specific MSF application. A meeting was held for this purpose in Challis on November 18, 1981.

- As a result of the meeting the IWRB chose to reduce the rate of flow on the application. An amended application was thus filed on April 20, 1982.

- The hearing that we are gathered for today was advertised in both the Challis_____ and the Salmon_____ on_____ and_____. Each of the known interested parties was mailed a letter regarding this hearing, including owners of land adjacent to the river in the MSF reaches, waterusers, attendees of the previous meetings and area legislators. In addition two news releases about the hearing distributed to the media.
- F&G Exhibits are valid
- Letters in support or opposition:
  See attached page.

- ~~Present staff exhibit 1, which depicts the location of the reach of stream in question.~~ Eliminate as unnecessary

- Present staff exhibit 1, which is a schematic of the reach.

- Present staff exhibit 2, which is a flow duration curve of the flows in the Pahsimeroi river at the USGS measuring point. Increased flows in the fall and winter indicate that this river is fed by groundwater discharge.

SUMMARY OF CORRESPONDANCE IN SUPPORT OR
IN OPPOSITION TO THE PAHSIMEROI RIVER MSF

Prior to July 9, 1980 Hearing

Support
- Letters from IDFG
- Letter from IDHW

Opposition
- Brief by James R. Bennetts
- Notice by Upper Snake River Water Users Protective Union (through Kent Foster)
- Letter from Roy Ellis

Prior to November 18, 1981 Public Meeting

Support

Opposition
- Resolution of Custer County Resource & Economic Stabilization Committee
- Resolution of Tri-County Cattleman's Association

5

Prior to September 24, 1982 Hearing

Spport
- Letter from Marsha White
- Letter from National Audobon Society
- Letter from Robert Jones
- Letter from Peter Bowler
- Letter from Arline Rutledge
- Letter from Jery Jayne
- Letter from Clifford C. Mitchell
- Letter from Frank Felton

9

Opposition
- Letter and Statement from James Bennetts
- Letter from Vaughan M. Higbee, Jimmie L. Dowton & Duane Moen

2

MICROFILMED

Minimum Stream Flow Application

FACT SHEET

Application No.:	73-7045
Source:	Pahsimeroi River
Tributary to:	Salmon River
Requestor:	Idaho Department of Fish & Game
Applicant:	Idaho Water Resource Board
Date Application Filed:	December 19, 1979
Quantity:	Reach 1: 74.0 cubic feet per second from the confluence with the Salmon River upstream about 4 miles to the point of injection of Big Springs.
	Reach 2: 45.0 cubic feet per second from the point of injection of Big Springs upstream about 3 miles to the discharge of the Idaho Power Company fish rearing and release ponds located near Dowton Lane bridge.
Purpose:	To maintain trout and salmon spawning, rearing and migration.
Other:	Numerous water rights divert throughout the seven mile reach.

LOCATION MAP

47-7045

PAHSIMEROI RIVER MINIMUM STREAM FLOW

SUMMARY OF EVENTS

DATE	ACTION
12/06/1979	Request received from Idaho Department of Fish & Game (IDFG)
12/19/1979	Application filed by IWRB
06/12-19/1980	Application and hearing advertised by Custer Publishing Co.
07/09/1980	Hearing held in Challis
08/30/1980	Hearing record closed
11/18/1981	Informal Public Meeting held
04/20/1982	Application amended

ISSUES

1. Flow data presented to date may be insufficient for reaching conclusions regarding quantities of water availability and minimum flow requirements.

2. The application may not meet the minimum criteria which states that it:
   a. Will not interfere with any existing water rights;
   b. Is in the public, as opposed to private, interest;
   c. Is necessary for the stated purposes of the MSF
   d. Is the minimum flow and not the ideal flow; and
   e. Is capable of being maintained.

3. Waterusers are concerned about being prevented from diverting additional irrigation flows in the future.

WATER RIGHTS

RECEIVED
SEP 20 1982
Department of Water Resources

Before the Director

of the

Idaho Department of Water Resources

In the Matter of ~~Application~~ for Permit No. 73-7045 of The Idaho ~~Water Resources~~ Board for a Minimum Stream Flow on the Pahsimeroi River	MOTION TO TAKE OFFICIAL NOTICE AND ORDER

COMES NOW The Idaho Department of Fish and Game and moves the Director of the Department of Water Resources under the provisions of Rule 9.16 of the Rules and Regulations on Practice and Procedure of the Department of Water Resources to take official notice of the following exhibits introduced into the hearing record at the previous hearing held on the above-entitled matter:

A. Idaho Department of Fish and Game Exhibit #1:

No. of steelhead juveniles released into the Pahsimeroi River at Idaho Power Company Hatchery facilities.

B. Idaho Department of Fish and Game Exhibit #2:

No. of juvenile summer chinook salmon released from ponds into the Pahsimeroi River at the upstream Idaho Power Company facility.

C. Idaho Department of Fish and Game Exhibit #3:

No. of adult steelhead trout collected at the adult trapping facility at the Idaho Power Company Pahsimeroi Hatchery.

D. Idaho Department of Fish and Game Exhibit #4:

No. of adult summer chinook salmon collected at the adult trapping facility, Idaho Power Company Pahsimeroi Hatchery.

E. Idaho Department of Fish and Game Exhibit #5:

No. of adult steelhead trout and summer chinook salmon passed upstream from the weir at Idaho Power Company's adult facility to resume spawning.

F. Idaho Department of Fish and Game Exhibit #6:

No. of juvenile steelhead trout released into the Pahsimeroi River from programs other than Idaho Power Company Mitigation.

WITHDRAWN

G. Idaho Department of Fish and Game Exhibit #7:

Proportion of steelhead anglers' catch from the Salmon River below North Fork that originated from the Idaho Power Hatchery program on the Pahsimeroi River.

H. Idaho Department of Fish and Game Exhibit #8:

Stream resource maintenance flow studies, 1976.

I. Idaho Department of Fish and Game Exhibit #9:

Stream resource maintenance flow determinations on Idaho streams March 1, 1978 to February 28, 1979.

True and correct copies of the documents described in paragraphs A-G and on file at the Department of Water Resources are attached hereto as Exhibits A-G respectively. The documents referred to in paragraphs H and I are not reproduced because of their length. A true and correct copy of the cover page of said documents are attached hereto as Exhibits H and I respectively. The documents or portions thereof attached as Exhibit A-I respectively, are incorporated herein by this reference.

This motion is based on the following ground:

The documents referred to in paragraphs A-I provide information regarding the importance of the Pahsimeroi River to the anadromous fish program of the Idaho Department of Fish and Game. Therefore, these documents are relevant to whether the approval of the minimum stream flow application is in the local public interest.

WHEREFORE, the Idaho Department of Fish and Game respectfully requests the Director of the Department of Water Resources to take official notice of the documents specified above.

DATED This 20th day of September, 1982.

David J. Barber
Deputy Attorney General
Idaho Dept. of Fish and Game

ORDER

Upon review of the foregoing motion and for good cause appearing;

IT IS HEREBY ORDERED That the Department of Water Resources takes official notice of the official documents described in paragraph A through I in the Idaho Department of Fish and Game's MOTION TO TAKE OFFICIAL NOTICE dated Sept. 20, 1982.

DATED This ____ day of _____, 1982.

_____

x So ordered per comments in record dated Sep 24, 1982
by A. Kenneth Dunn
Director
(DWR)

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of September, 1982, a true and correct copy of the MOTION TO TAKE OFFICIAL NOTICE was served by mailing in the U.S. mail a true and correct copy thereof, postage prepaid, to the following persons at the indicated addresses, which are the last addresses of said persons known to me:

James R. Bennett
Attorney at Law
P. O. Box 36
Challis, Idaho 83226

Department of Water Resources
Northern Region
4055 Government Way
Route 5, Box 203
Coeur d'Alene, Idaho 83814

David J. Barber
Deputy Attorney General
Idaho Dept. of Fish and Game

WILLIAM DEMMON

EXHIBIT A

Table 1. The number of steelhead juveniles released into the Pahsimeroi River at Idaho Power Company hatchery facilities.

Year	No. of Fish
1966	65,500
1967	1,365,000
1968	1,484,000
1969	1,645,000
1970	1,622,000
1971	1,630,000
*1972	1,555,000
1973	1,292,000
1974	1,847,000
1975	1,331,000
1976	1,610,000
1977	1,448,000
1978	1,300,000
1979	1,372,000
1980	1,097,060

*Since 1972, all releases were made at the adult facility.

Fish and Game
Exhibit 1

MICROFILMED

EXHIBIT B

Table 2. Number of juvenile summer chinook salmon released from ponds into the Pahsimeroi River at the upstream Idaho Power Company facility.

Year	No. of Fish
1970	393,800
1971	400,300
1972	231,700
1973	217,100
1974	330,000
1975	114,600
1976	121,000
1977	234,400
1978	508,100
1979	---
1980	---

Fish & Game
Exhibit 2

MICROFILMED

EXHIBIT C

Table 3. Number of adult steelhead trout collected at the adult trapping facility at Idaho Power Company's Pahsimeroi hatchery.

Year	No. of Adult Steelhead Trout
1969	850
1970	508
1971	713
1972	4,904
1973	1,458
1974	1,795
1975	691
1976	585
1977	1,504
1978	2,803
1979	2,501
1980	1,620

Fish & Game
Exhibit 3

WITHDRAWN

EXHIBIT D

Table 4. Number of adult summer chinook salmon collected at the adult trapping facility, Idaho Power Company's Pahsimeroi hatchery.

Year	No. of Adult Summer Chinook
1969	538
1970	485
1971	262
1972	628
1973	546
1974	155
1975	89
1976	274
1977	558
1978	*---
1979	33

*Trap not operated.

Fish + Game
Exhibit 4

MICROFILMED

EXHIBIT E

Table 5. Numbers of adult steelhead trout and summer chinook salmon passed upstream from the weir at Idaho Power Company's adult facility to resume their spawning migration.

Year	No. of Adult Steelhead Trout	No. of Adult Summer Chinook
1969	60	364
1970	41	358
1971	7	119
1972	40	444
1973	18	369
1974	0	69
1975	0	0
1976	0	0
1977	0	0
1978	244	*---
1979	384	33
1980	36	

*Trap not operated.

Fish + Game
Exhibit 5

EXHIBIT NO.

EXHIBIT F

Table 6. Numbers of juvenile steelhead trout released into the Pahsimeroi River from programs other than Idaho Power Company mitigation.

Year	No. of Steelhead Fry	No. of Steelhead Migrants
1978	185,000	
1979	10,800	157,700
1980		168,000

Fish + Game
Exhibit 6

MICROFILMED

EXHIBIT G

Table 7. The proportion of steelhead anglers' catch from the Salmon River below North Fork that originated from the Idaho Power hatchery program on the Pahsimeroi River.

Fall & Spring Seasons	Percent Hatchery
1968-69	20%
1969-70	22%
1970-71	18%
1971-72	60%
1972-73	36%
1973-74	40%
*1974-75	29%
1975-76	---
**1976-77	51%
1977-78	69%
**1978-79	75%
1979-80	74%

*Fall season only, no spring fishery.
**Spring season only.

Fish & Game
Exhibit 7

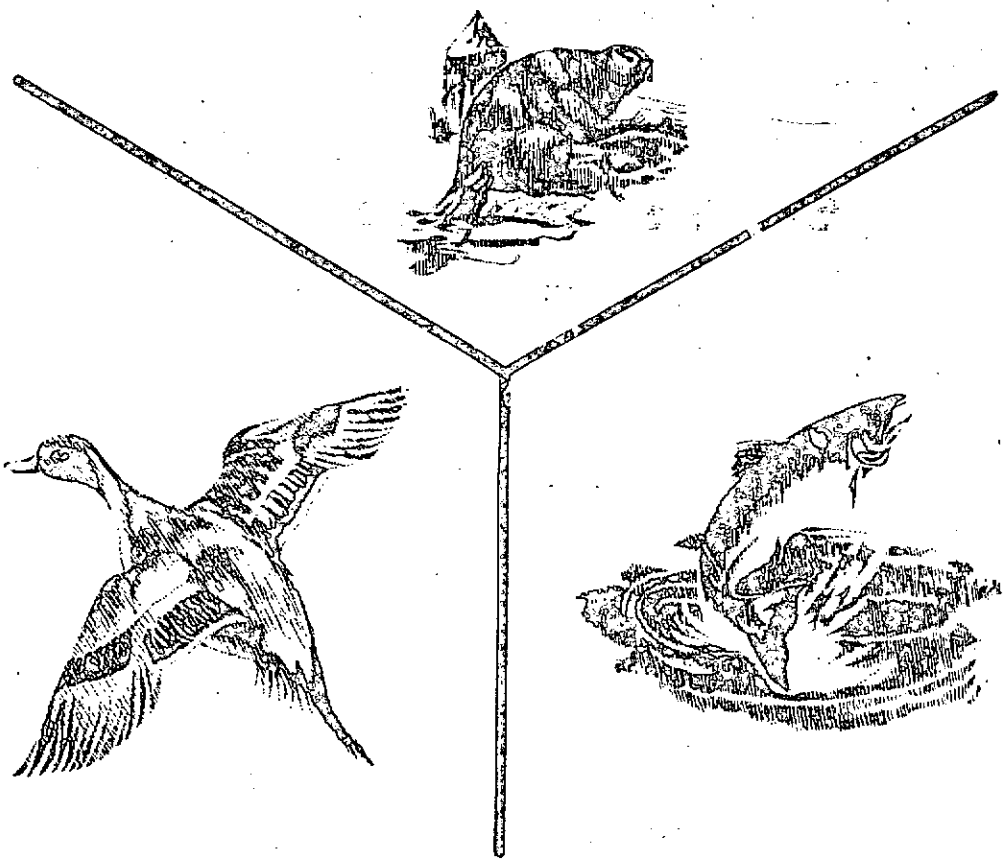
MICROFILMED

EXHIBIT H

STREAM RESOURCE MAINTENANCE

FLOW STUDIES

1976



DEPARTMENT OF WATER RESOURCES

IDAHO FISH & GAME

PROPERTY OF

EXHIBIT I

IDAHO
DEPARTMENT OF FISH & GAME

Joseph C. Greenley, Director

FEDERAL AID TO FISH & WILDLIFE RESTORATION
Job Performance Report

Project F-73-R-1
FISHERY RESEARCH

SUBPROJECT IV. RIVER AND STREAM INVESTIGATIONS

Study I. Stream Resource Maintenance Flow Determinations on Idaho Streams

Period Covered: 1 March 1978 to 28 February 1979

by

Tim Cochnauer
Senior Fishery Research Biologist

and

Neil R. Hoyt
Biological Aide

March, 1979

UNIVERSITY OF IDAHO

September 17, 1982

Mr. Rance Bare, Ellsworth Engineers
P. O. Box 1822
Idaho Falls, Idaho 83401

RE: Minimum Stream Flow Application For Pahsimeroi River, No. 73-7045

Dear Mr. Bare:

Pursuant to your request relayed by Norm Young, enclosed please find the materials from the above-referenced matter that may be of use to you; as indexed below:

1. Summary of hearing information.
2. Copy of Amended Application.
3. Copies of pertinent protions of exhibits submitted at the July 9, 1980 hearing.
4. Copy of July 25, 1980 letter and attachments containing some additional data.
5. Copy of water flows measured by Fish & Game in 1981. To determine the locations of the diversions I suggest that you call Kent Ball with Fish & Game in Salmon.

In looking through the 2 inch thick file, this is the information that I suspect will be of most value to you.

Please remit $0.25 per copy, or $11.25 to this office. If some of the information is of no value to you, just return those copies and reduce the billing amoumt accordingly.

If you desire further information, please give me a call on Tuesday, September 21. I will be driving through Idaho Falls the next day and can drop it by your office.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Supervisor, Water Allocation Section

DRT:jg Enclosure

TITLE OF CASE — INDEX OF DECREES

SOURCE Pahsimeroi River & Tributaries — PAGE

WATER DIST. 73 — COUNTY

JUDICAL DIST. — JUDGE

DATE OF DECREE — RECORDED IN BOOK NO. — AT PAGE NO. — FILE NO.

PN.	DN.	DECREED OWNER NAME PRESENT OWNER	AMT. INCHES SEC. FT.	PRIORTY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
	A	COCHRAN vs MAELZER	Sept.,	1901	Judge	Kirtland	I.	Perky	File 73H	
	B	EMAEEZER vs SMITH	April 29,	1920	Judge	F.	J.	Cowen	File 73A	
	C	HAMILTON vs SWENDSEN	Feb. 16,	1926	Judge	Ralph	W.	Adair	File 73E	
	D	HERDER vs BURSTEDT	Dec. 30,	1957	Judge	Preston		Thatcher	File 73H	
	E	FALLS vs WELLS	April 1,	1910	Judge	Geo.	F.	Hansbrough	File 73K	
	F	OSTROM vs CARR	June 28,	1914	Judge	J.	M.	Stevens	File 73I	
	G	BERNARD vs HORN	July 9,	1937	Judge	Guy		Stevens	File 73F	
	H	COCHRAN vs HAMMOND	Oct. 26,	1898	Judge	D.	W.	Standrod	File 73G	
	I	ADAMS vs DOWNEY	June 15,	1917	Judge	Robert	M.	Terrel	File 73G	
	J	BROWN vs GRUBB	July 16,	1912	Judge	J.	M.	Stevens	File 73C	
	K	WARREN vs SMITH	July 9,	1917	Judge	F.	J.	Cowen	File 73K	
	L	REESE vs SMITH	Dec. 21,	1916	Judge	F.	J.	Cowen	File 73K-1	
	M	GRUBB vs WAGNER	May 18,	1916	Judge	James	C.	Gwinn	File 73L	
	N	FALLS vs WELLS	Oct. 17,	1936	Judge	Guy		Stevens	File 73K	
	O	BAUMAN vs KILGORE	April 28,	1920	Judge	F.	J.	Cowen	File 73A	
	P	HAMMOND vs MILLER	April 7,	1910	Judge	J.	M.	Stevens	File 73D	
	R	MORROW vs WAGONER	April 7,	1910	Judge	Geo.	F.	Hansbrough	File 73B	

TITLE OF CASE: PAHSIMEROI RIVER and TRIBUTARIES

Abstract of All Decrees

SOURCE

WATER DIST. 73

JUDICAL DIST.

DATE OF DECREE

PAGE

COUNTY

JUDGE

RECORDED IN BOOK NO. AT PAGE NO. FILE NO.

P.N.	D.N.	DECREED OWNER	NAME	PRESENT OWNER	AMT. INCHES / SEC. FT.	PRIORTY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
Page	No.	STREAM						Page	No.		STREAM	
1	- 3	Pahsimeroi River							18		Double Springs Sec. 32-12N-23E	
	4	Goldburg Creek							19		Rock Springs Sec. 19 " "	
5	- 7	Big Creek							19		Spring Creek Sec. 12 - 13N-22E	
	8	Patterson Creek							19		Mill Creek Sec. 12-13N-23E	
	9	Sulphur Creek							~~19~~		Unnamed Spring Malinda Wells Sec. 22-14N-23E	
	9A	Little Sulphur Creek							20		Spring or Stinking Cr. Sec. 18-14N-23E	
10	12	O'Neal, Spring or Big Spring Creek							20		Mahoghany Spring " " " "	
	13	Little Spring Creek							20		Deer Springs Sec. 7 - 14N-23E	
	13	Mud Springs Creek							20		Grouse Creek Sec. 27-14N-22E	
	14	Falls Creek							21		Potato Creek Sec. 18-15N-22E	
	15	Morse Creek							21A		Mayrick Creek " " "	
	16	Morgan Creek							21B		Bernard Ditch " " "	
	17	Burnt Creek - Sec. 32-11N-24E							22		Upper Spring Creek Sec. 28-14N-23E	
	17	Bear Creek Sec. 22-12N-24E							22		Unnamed Spring - Minor A. Brown Sec. 12-14N-21E	
	18	Donkey or Jackass Cr. Sec. 22-12N-24E							22		Warm Springs Sec. 34-15N-21E	
	18	Graves Springs, Hill Creek, Big Gulch Sec. 23-12N-24E							23		Lawson Creek Sec. 27-15N-21E	

MICROFILMED

LEGEND P.N. = PRIORTY NUMBER D.N. = DECREE NUMBER C.T. = CUMULATIVE TOTAL

TITLE OF CASE: Abstract of all decrees on the Pahsimeroi River and its tributaries

SOURCE: Pahsimeroi River and tributaries — PAGE: 1

WATER DIST.: 73 — COUNTY:

JUDICAL DIST.: — JUDGE:

DATE OF DECREE: — RECORDED IN BOOK NO.: — AT PAGE NO.: — FILE NO.:

P.N.	D.N.	DECREED OWNER NAME PRESENT OWNER	AMT. INCHES SEC. FT.	PRIORTY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
		PAHSIMEROI RIVER								
73	192	Cunningham & Porter. Vern Hamilton ~~F. Cochran~~	320	8/25/84	(Less the flow of Grouse Creek)				NE¼SW¼, SE¼NW¼, W½NW¼, NW¼SE¼, S½SE¼, Sec. 27; NE¼NE¼, Sec. 34, T. 14 N., R. 22 E.	
73	099	R. Wilson	200*	4/14/85	Ellis Ditch				255" from Mud Spring Creek or balance from Pahsimeroi	
			55	"	Murphy Ditch				NE¼NW¼, E½NE¼, E½SW¼, SE¼, Sec. 21; SW¼, Sec. 22 N½SW¼, Sec. 27 - 15N 21E - Also listed under Mud Springs Creek	
73	147 E	Wood Livestock Co. Felipe Yribar	220	4/25/86					W½NW¼, Sec. 12, E½NE¼, Sec. 11; T13N., R22E N½SE¼, SW¼, Sec. 12; E½SE¼, Sec. 11; W½NE¼NW¼, Sec.13; E½NE¼, Sec. 14, T13N R22E	
73	152 E	Lorenzo Falls Ted Jones 200" L. E. O'Neal 320"	520	5/1/86					W½SW¼, Sec. 23; SE¼NE¼, W½NE¼, SE¼, Sec. 22; E½SE¼ NW¼SE¼, NE¼SW¼, Sec. 16, T14N., R 22 E., B. M.	
73	154 E	Edward O'Neal Sherman Furey	360	5/1/86					S½SW¼, Sec. 15; NW¼, N½SW¼, Sec. 22; NE¼NE¼Sec. 21 T14N, R22E; SW¼NW¼ 15-S½NE¼, SE¼NW¼-16-T14N R22E	
73	157 E	Jas. Hooper D. M. Fife ~~Mrs. J. Hooper~~	220	5/1/86					SW¼SW¼-16; S½SE¼, SE¼SE¼, 17; SE¼NE¼, W½NE¼, NW¼, N½SE¼, N½SW¼, 17; E½NE¼, NE¼SE¼ 18-T14N-R22E.	
73	146 E	Wood Livestock Co. -Ralph Blessinger	300	5/25/87					Lots 3 & 4, SE¼SW¼ 31-T13N-R-24E; Lots 3,4,5, SE¼NW¼, NE¼SW¼-6-T12N-R24E	
73	090	Odell D. Bartlett	125	4/18/88	Reed & Bartlett Ditch				W½SE¼, E½SW¼, Sec. 34 - 15N - 21E	
73	089	Lois P. Reed 73 088 →	115	11/5/89	"				NE¼, E½SE¼, Sec. 34; W½NW¼, SE¼NW¼, SW¼,-35-15N-21E	
			80	"	Murphy Ditch				NW¼NE¼, S½NE¼, Sec. 23; SW¼NW¼, Sec. 24 -13N-22E	
73	148 E	Wood Livestock Co. -Felipe Yribar	160	5/1/97					N½NE¼, SE¼NE¼, 24-13N-22E; Lot 2, SE¼NW¼, NE¼SW¼ NW¼SE¼, Sec. 19-13N-23E	
73	149 E	" " " " "	400	5/1/97					SW¼, NW¼SE¼, S½SE¼, Sec. 13, SE¼SE¼, Sec. 14; NE¼NW¼, Sec. 24 Lot 3, Sec. 3-12N-23E; SE¼SW¼, W½SE¼, SW¼NE¼, Sec. 34 - 13N-23E	
73	153 E	L. G. Reese Bert Hatch ~~A. E. Zeigler~~	200	6/1/97						
73	150 E	Wood Livestock Co. Bert Hatch Trans. 777* Grant Baldwin Felipe Yribar	424.4 (480)	7/1/97	SENE	18	11N	24E	Lots 3 & 4, SE¼SW¼, SW¼SE¼, 19; NE¼NW¼, NE¼-30; S½NW¼, N½SW¼, W½SE¼, SE¼SE¼ 29; SE¼NE¼, NE¼SE¼ 33; NE¼NE¼, S½NE¼, N½SE¼, SW¼SE¼, 34 - 13N-23E (Via Pines Ditch)	
73	151 E	Wood Livestock Co. Bert Hatch	160	7/1/97					W½SW¼ 27; E½SE¼ 28; T 13 N., R. 23 E.	
Trans.	777*	O. H. Swauger	48.65	7/1/97	Pahsimeroi R.				W½SW¼, 27; NW¼, S½, 28; NE¼, N½NW¼, Sec. 33;	
			174.5	8/7/05	Stanley Hull Ditch				(Balance of water released to	
			199.0	11/19/03	SW¼	32	12 N	24 E	S½NW¼, NE¼NW¼, Sec. 34, T. 13 N., R 23 E. Pahsimeroi River)	

LEGEND P.N. = PRIORTY NUMBER D.N. = DECREE NUMBER C.T. = CUMULATIVE TOTAL

TITLE OF CASE: PAHSIMEROI RIVER and TRIBUTARIES
ABSTRACT OF ALL DECREES

WATER DIST. 73 | COUNTY | JUDICAL DIST. | JUDGE | DATE OF DECREE | RECORDED IN BOOK NO. | AT PAGE NO. | FILE NO.

P.N.	D.N.	DECREED OWNER	NAME	PRESENT OWNER	AMT. INCHES SEC FT	PRIORTY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
73	093 C	John S. Norman			100	4-16-00	Short Ditch				SE¼, Sec. 27-15N-21E	
73	086 C	A. McDonald, C. Fraser & M. Robertson			80	5-1-00	Ellis Ditch				N½NE¼, SE¼NE¼, Sec. 20-15N-21E E½NW¼, E½SW¼, W½SE¼, SE¼SE¼, Sec. 17-15N-21E	✓
73	087 C	" " "			360	5-1-00	McDonald Ditch				" " " " " "	✓
73	096 C	W. L. Dowton	73 096 →		90* 70	5-10-01 " "	Ellis Ditch Murphy "				NW¼NW¼, S½NW¼, W½SW¼, Sec. 21-15N-21E	
73	097 C			Dowton Springs	25	no date	Private Ditch				" " " " " "	
73	190 E	L. W. Cochran		Bob Whitworth	150	5-1-00	Lower part of James Hooper ranch				SE¼NW¼, W½SE¼, Sec. 7; NW¼NE¼, Sec. 18; 14N-22E	
73	100 C	I. R. Wilson			145	6-11-01	Murphy Ditch				See Right 4-14-85	
73	191 E	Rosa Wood		Ralph Blessinger ~~Wood Livestock Co.~~	280	3-15-02	Alger Headgate				Lot 2, S½NE¼, N½SE¼, Sec. 6; SW¼NW¼, NW¼SW¼, Sec. 5-12N-24E	
73	177 E	Edward Popejoy		Bert Hatch Trans. 777*	(0) 320	11-19-03					SE¼NW¼, SW¼NE¼, W½SE¼, E½SW¼, Sec. 29; NE¼NW¼, NW¼NW¼, Sec. 32 - 11N-24E	
73	165 E	H. Bates		D. M. Fife ~~J. Nesbitt~~	160	1-4-04	SWSW	32	12N	24E	SW¼NE¼, SE¼NW¼, W½NW¼, Sec. 22-12N-24E	
73	166 E	Jas. Wells		Dale Pence ~~Wm. Keller~~	160	1-4-04	"	"	"	"	W½NE¼, W½SE¼, Sec. 8-12N-24E	
73	167 E	J. C. Ross		Stanley Hull	160	1-4-04	"	"	"	"	E½NE¼, NE¼NW¼, Sec. 21; NW¼NW¼, Sec. 22-12N-24E	
73	078 C	John Johnson			105	4-30-04	Johnson Ditch				From Pahsimeroi and Big Spring Creek W½NE¼, S½NW¼, Sec. 27-15N-21E	
73	081 C	T. G. Montgomery			Minus flow of springs - T. G. Montgomery 200	5-4-04					S½SE¼, NW¼SE¼, SE¼SW¼, Lot 7, Sec. 6-15N-21E	
				springs	all	nodate	SE¼, Sec 8; NE¼NE¼, W½SW¼, Sec. 9-15N-21E				" " " " " " "	
73	110 C	F. M. Kobbe			40	3-21-05	Reed & Bartlett Ditch				NW¼NE¼, NE¼NW¼, Sec. 3-14N-21E	✓
73	110 E	" "			Minus amount from Little Spring Creek 40	"	Mulvania Ditch				" " " "	
73	120 E	W. J. Sharp			160	5-22-05	NENE¼	11	10N	23E	S½SE¼, Sec. 32-11N-24E; Lot 1,2, Sec. 5-10N-24E	
		Trans. # 777 O. H. Swauger			48.65 174.5	7-1-97 8-7-05	Pahsimeroi River Stanley Hull Ditch				W½SW¼, Sec. 27; NW¼, S½, Sec. 28, NE¼, N½NW¼, Sec. 33-13N-23E (balance of water released to Pahsimeroi R.)	
					199.0	11-19-03	SW¼	32	12N	24E	S½NW¼, NE¼NW¼, Sec. 34-13N-23E	

LEGEND P.N. = PRIORTY NUMBER D.N. = DECREE NUMBER C.T. = CUMULATIVE TOTAL

TITLE OF CASE: PAHSIMEROI RIVER and TRIBUTARIES
ABSTRACT OF ALL DECREES

SOURCE Pahsimeroi River : Tributaries PAGE 3
WATER DIST. 73 COUNTY
JUDICAL DIST. JUDGE
DATE OF DEGREE RECORDED IN BOOK NO. AT PAGE NO. FILE NO.

P.N.	D.N.	DECREED OWNER / NAME / PRESENT OWNER	AMT. INCHES / SEC. FT.	PRIORTY	DIVERSION SUBDIV.	SEC.	TWR	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
73	185	E. Wells — C. M. Mulkie	120	7-5-05					$SE\frac{1}{4}SW\frac{1}{4}$, 27; $NW\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, Sec. 34-14N-22E	
73	174 E	Edith Matley — Grant Baldwin Trans. 777* Bert Hatch-grant [illegible]	40 (240)	8-7-05					$S\frac{1}{2}SW\frac{1}{4}$, Sec. 28; $NE\frac{1}{4}NE\frac{1}{4}$, Sec. 32; $N\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$ Sec. 33-T13N-23E	
73	107 C	Kippen & Freestone	60	5-1-06	$SE\frac{1}{4}NW\frac{1}{4}$	7	14N	22E	See Big Spring & Mud Spring Creek	
73	169 E	E. E. McJilton	160	7-27-07	NENE	11	10N	23E	$S\frac{1}{2}NE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$, Sec. 2; $SW\frac{1}{4}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$, Sec. 1-14N 21E	✓
73	168 E	Mason Allen	160	8-31-07	$NE\frac{1}{4}NE\frac{1}{4}$	11	10N	23E	$NE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$, Sec. 29; $SE\frac{1}{4}NE\frac{1}{4}$, Sec. 30-T11N-24E $S\frac{1}{2}SE\frac{1}{4}$, Sec. 20; $SE\frac{1}{4}SE\frac{1}{4}$, Sec. 19; $NE\frac{1}{4}NE\frac{1}{4}$, Sec. 30 11N-24E	
73	034 C	Mark Kilgore	120	2-8-08					See Big Creek Priority 6-26-13 $NE\frac{1}{4}SE\frac{1}{4}$, Sec. 27; $W\frac{1}{2}SW\frac{1}{4}$, Sec. 26; $NW\frac{1}{4}NW\frac{1}{4}$ 35-14N-22E	
73	035 C	E. J. Michael, Trustee	240	10-8-08					See Big Creek Priority - 6-1-15 $S\frac{1}{2}SW\frac{1}{4}$ 22; $NE\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}$, Sec. 27; $SW\frac{1}{4}NW\frac{1}{4}$, Sec. 26 -14N	22E
73	179 E	Cora Jones — Bob Whitworth	240	10-21-08	Minus flow of Donkey Creek)				$N\frac{1}{2}SW\frac{1}{4}$, Sec. 22; $N\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, Sec. 21; T12N-R24E $NW\frac{1}{4}NE\frac{1}{4}$, Sec. 28-12N-R-24E	
73	189 E	M. Beach — Felipe Yribar J. Nesbitt	320	5-19-09					$NW\frac{1}{4}SW\frac{1}{4}$, Sec. 20; $NE\frac{1}{4}SE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}$ $NE\frac{1}{4}NW\frac{1}{4}$, $NW\frac{1}{4}NW\frac{1}{4}$, Sec. 19; $SW\frac{1}{4}SW\frac{1}{4}$, Sec. 18-13N-23E	
73	202 K	C. A. Warren	156	9-16-09	SESW	20	13N	23E	$SE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, Sec. 18-13N-23E	
73	009 B	Etta M. Harrington	120	1-20-10					$SE\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, Sec. 18-14N-22E	
73	006 B	Valentine Maelzer	90	1-20-10					$SW\frac{1}{4}SW\frac{1}{4}$, Sec. 1; $E\frac{1}{2}NW\frac{1}{4}$, Sec. 12-14N-21E.	✓
73	086 C	A. McDonald, C. Fraser, M. Robertson	160	2-4-10	Murphy Ditch				See 5-1-00 Priority	
73	010 B	Mark Howe	120	6-24-10					$E\frac{1}{2}NW\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}$, Sec. 13-14N-21E	✓
73	011 B	Milla Howe	180	6-24-10					$N\frac{1}{2}SE\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}$, Sec. 13-14N-21E; $S\frac{1}{2}SW\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, 18-14N-22E	
73	197 L	Elmer D. Reese	200	4-15-11					$NE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}$, Sec. 33-13N-23E; $SE\frac{1}{4}NW\frac{1}{4}$, Sec. 3, T 12N-23E	
73	074 C	George A. Ellis	80*	4-1-12	Ellis Ditch				$NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$, Sec. 35-16N-20E	
73	077 C	Samuel Atkinson	50*	4-1-12	"	"			From Pahsimeroi River and Mud Springs Creek $SE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$, Sec. 8; $NE\frac{1}{4}SE\frac{1}{4}$, Sec. 7-15N-21E	✓
Trans.		777* O. H. Swauger	48.65 174.5	7-1-97 8-7-05	Pahsimeroi River Stanley Hull Ditch				$W\frac{1}{2}SW\frac{1}{4}$, Sec 27: $NW\frac{1}{4}$, $S\frac{1}{2}$, Sec. 28; $NE\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}$, Sec. 33 (Balance of water released to Pahsimeroi River)	
			199.0	11-19-03	$SW\frac{1}{4}$	32	12N	24E	$S\frac{1}{2}NW\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, Sec. 34-13N-23E	

LEGEND P.N. = PRIORTY NUMBER D.N. = DECREE NUMBER C.T. = CUMULATIVE TOTAL

TITLE OF CASE: PAHSIMEROI RIVER and its TRIBUTARIES
ABSTRACT OF ALL DECREES

WATER DIST. 73 | COUNTY | JUDICAL DIST. | JUDGE | DATE OF DECREE | RECORDED IN BOOK NO. | AT PAGE NO. | FILE NO.

P.N.	D.N.	DECREED OWNER NAME PRESENT OWNER	AMT. INCHES SEC. FT.	PRIORTY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
73	075	Wilson P. Ellis	40*	4-1-12	Ellis Ditch				$N\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, Sec. 35, T. 16 N-20E.	
73	073	Roscoe Hamilton see above	40*	" "	"	"			$SE\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, Sec. 7-15N-21E $SE\frac{1}{4}SE\frac{1}{4}$, Sec. 18; $NE\frac{1}{4}NE\frac{1}{4}$, Sec. 19; $W\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$,	✓
73	015 B	John W. Nesbitt	240	2-26-13					$SW\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}$, Sec. 20-13N-23E	
73	012 B	Clarence E. Byerley	60	4-28-13					$S\frac{1}{2}NE\frac{1}{4}$, Sec. 12-14N-21E	✓
73	097 C	W. L. Dowton	25	4-5-19	Dowton Springs					
			40	4-5-19	Murphy Ditch				See 5-10-01 priority	
		*Note: I. R. Wilson right through Ellis Ditch to be diverted from Pahsimeroi will be emptied into Mud Spring Creek above old McGovern ditch. W. L. Dowton right through Ellis Ditch to be diverted through Short Ditch to Mud Spring Creek. Pahsimeroi and Mud Spring Creek water to be measured above old McGovern ditch diversion. Roscoe Hamilton, George A. Ellis, Wilson P. Ellis and Samuel Atkinson to have prior right to water rising on Pahsimeroi River between Short Ditch and Ellis Ditch diversions and in Mud Springs Creek between measuring device near McGovern Ditch and Ellis Ditch diversion.								
		GOLDBERG CREEK								
73	145 E	Wood Livestock Co. -Ralph Blessinger	150	4-1-86					$NW\frac{1}{4}SE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}$, Sec. 31-13N-24E	
73	147 E	Wood Livestock Co. - Felipe Yribar	240	4-25-86					$E\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}NE\frac{1}{4}$, Sec. 11; $W\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$, Sec. 13; $E\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$, Sec. 12; $N\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}$, Sec. 12-13N-22E	
73	004 E	H. C. Reese Bert Hatch ~~A. Z. Zeigler, et al~~	120	4-19-05					$S\frac{1}{2}SW\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}$, Sec. 35, T13N-R23E	
73	193	H. C. Reese Bert Hatch ~~A. Z. Zeigler, et al~~	200	4-2-07					$E\frac{1}{2}SE\frac{1}{4}$, Sec. 34-13N-23E. Lots 1, 2, 4, Sec. 3 12N-23E	

LEGEND P.N. = PRIORTY NUMBER D.N. = DECREE NUMBER C.T. = CUMULATIVE TOTAL

CLAIM AND APPLICATION FOR PERMIT ON Pansimeroi River at confluence of Pansimeroi ...
to the NE¼NE¼, Sec. 21, T. 15 N., R. 21 E. CO., IDAHO

Additional rights since July 30, 1980 abstract.

September 8, 19 82 Revised Water District No.

CLAIM	APP.	NAME	AMT. cfs	Date of Filing or Priority	Point of Diversion				PLACE OF USE, REMARKS, ETC.
					Subdiv.	Sec.	Twp.	Rge.	
73-4034		Alton C. Pearson	0.02	04-01-1870	NWNE	07	15N	21E	T16N, R20E, Sec. 36: NESW Irr.
73-4040		William E. Bradbury or James Kelsh or	0.38	04-01-1870	L. 4 NWNE	07	15N	21E	T15N, R21E, Sec. 06: Lot 3 (NENW), Lot 4 (NWNW) Irr. & Stock
		Jack Wendel							
73-4017		Donald A. Blatz	7.8	01-22-1896	SESW NWNW	08	15N	21E	T15N, R21E, Sec. 07: N½NE, SWNE, NENW Irr.
[redacted]-4024		Ray Hamilton	2.4	07-15-1898	NENW	17	15N	21E	T15N, R21E, Sec. 07: SENE 08: S½NW Irr.
73-4022		Joe V. Higbee & Sons	1.0	02-04-1910	NENW	21	15N	21E	T15N, R21E, Sec. 17: SESW, NENW Irr.
73-4021		Joe V. Higbee & Sons	0.48	04-01-1922	SESW	08	15N	21E	T15N, R21E, Sec. 08: NWSW, SESW 07: NESE Irr.
73-4030		Clifford E. &/or Frances M. Hays	0.36	04-01-1948	NENE	07	15N	21E	T16N, R21E, Sec. 31: SWSW T16N, R20E, Sec. 36: SESE Irr.
73-4031		M. R. Literal	0.12	04-01-1968	SENW	25	16N	20E	T16N, R20E, Sec. 25: SENW Irr.
[redacted]	73-7051	Idaho Power Co.	10.0	03-24-1981	NENW	21	15N	21E	T15N, R21E, Sec. 21: NENW Fish propagation
	73-7055	Idaho Power Co.	40.0	04-28-1981	NWNE	36	16N	20E	T16N, R20E, Sec. 25: SWSE Fish propagation

MICROFILMED

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SYNCSORT  IV-AND-A  LF COPYRIGHT WHITLOW COM  ER SYSTEMS,INC. 1979   REL 2.3DRI  TE=80/185 TIME=10.49.02
                          IDAHO STATE AUDITORS OFFICE   VS2  REL  3.8  CPU MODEL  168
 SORT FIELDS=(0001,030,CH,A,0031,030,CH,A,0061,008,CH,A,0069,008,CH,A,0678,002,CH,A)
 RECORD TYPE=F,LENGTH=(07740)
N 737043
N 732163
N 732168
N 734012
N 734009
N 734008
N 737006
N 734014
N 734013
N 737029
N 737045

TOTAL SOURCES 0000012
TOTAL USES    0000018

SOURCES-PRINTED  0000027

 WER055I  INSERT       27, DELETE       27
 WER124I  TRK  OVER-ALLOC FACTOR= PRIM/USED=041
 WER045C  END SORT PH
 WER246I  FILESIZE 208,980 BYTES
 WER054I  RCD IN         0, OUT         0
 WER169I  TPF'S APPLIED 123456
 WER052I  END SYNCSORT   OPT= M,  WRD416RG,SORT    ,WRD416
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Roberta

Moore Business Forms, Inc. sv

INDICATES TOTAL SOURCE: PAHSIMEROI RIVER TRIBUTARY TO: SALMON RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM	TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
73-4012	FUREY, JACK B. P.O. BOX 280 CHALLIS ID	04-01-1870	IRRIGATION	04-01	11-01	7.48 CFS	SWNW S06 T15N R21E		STATRY CLM
	P/U: T16N R20E S36 NWNE(10) SWNE(30) SENE(10) NENW(20) SENW(05) NESE(25) NWSE(15) SWSE(02) SESE(30) P/U: T16N R21E S31 LT02 (SWSW)(05) P/U: T15N R20E S01 LT01 (NENE)(15) P/U: T15N R21E S06 LT04 (NWNW)(20)							* 187 ACRES*	
73-4013	FUREY, JACK B. P.O. BOX 280 CHALLIS ID	04-01-1870	IRRIGATION	04-01	11-01	9.60 CFS	NENE S07 T15N R21E		STATRY CLM
	P/U: T16N R20E S36 SWNE(05) NENW(20) SENW(35) NESW(38) SESW(07) NWSE(25) SWSE(38) SESE(05) P/U: T15N R21E S06 NWNW(02) P/U: T15N R20E S01 NENE(25) NWNE(40)							* 240 ACRES*	
73-4009	BOGGEMAN, WORTH BOGGEMAN, MARY CHALLIS ID	04-01-1874	IRRIGATION	04-01	11-01	8.20 CFS	SWNW S08 T15N R21E	SWSW(16) S25 T16N R20E NWNE(15) NENW(35) NWNW(10) S35 T16N R20E SWSW(03) SESW(36) NESE(10) NWSE(11) SWSE(39) SESE(30) S26 T16N R20E * 205 ACRES*	STATRY CLM
			RECREATION	05-01	11-01	1.00 CFS		SAME AS OTHER USE	
				*	---*AFA				
				*	---*CFS				
73-2163	CONKLIN, W. M. ELLIS ID	09-01-1966	IRRIGATION	04-01	10-31	234.00 AFA 1.17 CFS	NENE S07 T15N R21E	NESE(15) SESE(28) S06 T15N R21E NWSW(19) SWSW(16) S05 T15N R21E, * 78 ACRES*	LICENSE
73-2168	IDAHO POWER CO.	01-20-1967	FIRE	-	-		NENW S21	NENW	LICENSE

FORM 1413 H13
Moore Business Forms, Inc. sv

1NDICATES TOTAL SOURCE: PAHSIMEROI RIVER TRIBUTARY TO: SALMON RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM	TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
73-2168	BOISE ID		~~PROTECTIO~~ PROPAGATION			10.00 CFS	T15N R21E S21 T15N R21E		
73-7006	IDAHO POWER CO. BOISE ID	08-01-1969	FIRE PROTECTIO	03-01	11-30	40.00 CFS	NWNE S36 SWSE T16N R20E S25 T16N R20E		LICENSE
	OTHER USES: F/HOLDING ADULT STEELHEAD.								
73-4008	LATIMER, E. L. P.O. BOX 122 MAY ID 83253	06-01-1975	IRRIGATION	04-01	11-01	4.60 CFS	NENE S07 T15N R21E SWSE S06 T15N R21E		STATRY CLM
	REMARKS: AC. IRR.=230.								
	P/U: T15N R21E S06 SENW(40) NESW(40)			LT05		LT06			
	P/U: T15N R20E S01 SENE(40) NESE(40)								
							* 160 ACRES*		
73-7029	CORRIGAN, GERALD B. CORRIGAN, DIANE U. STAR RT. ELLIS ID 83235	06-02-1975	IRRIGATION	04-01	11-01	.48 CFS	SENE S36 SENE(24) T16N R20E S36 T16N R20E		PERMIT
							* 24 ACRES*		
73-7043	HIGBEE, JOE V. ELLIS ID 83235	05-29-1979	IRRIGATION	04-01	11-01	1.60 CFS	SESW S08 T15N R21E	NWSW(40) SWSW(40) S08 T15N R21E	PERMIT
							* 80 ACRES*		
73-7045	IDAHO WATER RESOURCE BOARD STATEHOUSE BOISE ID 83720	12-19-1979	MINIMUM IN STREAM FLO	11-01	01-31	85.00 CFS	NWNW S25 T16N R20E	LT01 (NWNW) S25 T16N R20E	APPLICATION
	OTHER USES: N/MAINTAIN AQUATIC HABITAT BETWEEN POD AND NENW, SEC. 21,15N,21E.								
						74.00 CFS		LT01 (NWNW) S25 T16N R20E	
						78.00 CFS		LT01 (NWNW) S25 T16N R20E	
						109.00 CFS		LT01 (NWNW) S25 T16N R20E	
						78.00 CFS		LT01 (NWNW) S25 T16N R20E	
						127.00 CFS		LT01 (NWNW) S25 T16N R20E	

Moore Business Forms, Inc. sv

INDICATES TOTAL SOURCE: PAHSIMEROI RIVER TRIBUTARY TO: SAMON RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM	USE PERIOD TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
✓ 73-4012 ✓	FUREY, JACK B. P.O. BOX 280 CHALLIS ID	04-01-1870	IRRIGATION	04-01	11-01	7.48 CFS	SWNW S06 T15N R21E		STATRY CLM
	P/U: T16N R20E S36 NWNE(10) SWNE(30) SENE(10) NENW(20) SENW(05) NESE(25) NWSE(15) SWSE(02) SESE(30) P/U: T16N R21E S31 LT02 (SWSW)(05) P/U: T15N R20E S01 LT01 (NENE)(15) P/U: T15N R21E S06 LT04 (NWNW)(20)							* 187 ACRES*	

Previously listed

Moore Business Forms, Inc. sv FORM 1413 H13

INDICATES TOTAL SOURCE: PAHSIMEROI RIVER TRIBUTARY TO: SLAMON RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM	USE PERIOD TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
73-4014	FUREY, JACK B. P.O. BOX 280 CHALLIS ID	04-01-1870	IRRIGATION	04-01	11-01	1.80 CFS	SENE S36 T16N R20E	NWNE(30) SWNE(05) STATRY CLM SENE(10) S36 T16N R20E * 45 ACRES *	

Moore Business Forms, Inc. sv

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WW          WW  RRRRRRRRRRRR   DDDDDDDDDD        4444         111        666666666666 RRRRRRRRRRRR   GGGGGGGGGGGG
 WW        WW   RR         RR  DD       DD      44 44       1111        66      66   RR         RR  GG          GG
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  WW      WW    RRRRRRRRRRRR   DD       DD   44444444444     11        66666666666  RRRRRRRRRRRR   GG
   WW    WW     RRRRRRRRRRRR   DD       DD   444444444444    11        666666666666 RRRRRRRRRRR    GG      GGGGG
   WW WWWW WW    RR         RR  DD       DD        44         11        66      66   RR         RR  GG      GGGGG
    WW WW WW WW  RR         RR  DD       DD        44         11        66      66   RR         RR  GG          GG
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      WW   WW    RR         RR  DDDDDDDDDD        44         11111111  666666666666 RR         RR  GGGGGGGGGGGG
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          JJ      22      22   22      22   22      22                                  TT
          JJ              22       22       22      22                                 TT
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          JJ             22       22       22                                          TT
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****T  END  JOB  222  WRD416RG  ALLEN.4454          ROOM      10.55.35 AM 03 JUL 80  R1.PR1    SYS 168L  JOB  222  END  T****
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Abstract of existing water rights within reach of MSF request

FORM 1413 HL3
Moore Business Forms, Inc.

Ellis, Idaho
Aug 31, 1982

Dept of Water Resources
Boise, Idaho

RECEIVED
SEP 6 1982
Department of Water Resources

Gentlemen:

This is a formal request to appear at the hearing being held at Challis, Idaho on Sept 24, 1982, (application #73-7045) for the purpose of presenting my views and Cross examining witnesses.

Sincerely Yours

Don A. Blatz
Star Route
Ellis, Idaho
83235

MICROFILMED

DEPARTMENT OF WATER RESOURCES

State of Idaho, Statehouse, Boise, Idaho 83720
Phone: 208- 334-4440

FOR IMMEDIATE RELEASE

August 18, 1982

NEWS RELEASE

BOISE---An amended minimum stream flow application on the Pahsimeroi River will be discussed at a public hearing September 24 at 9 a.m. at the Legion Hall, Challis, according to A. Kenneth Dunn, director, Idaho Department of Water Resources (IDWR.)

The amended application, filed by the Idaho Water Resource Board, is seeking a 74 cubic feet per second (cfs) flow from the confluence of the Salmon and Pahsimeroi Rivers upstream about four miles to Big Springs. A flow of 45 cfs is sought from Big Springs upstream about three miles to the discharge point of Idaho Power Company's fish rearing and release ponds. The year-around flows are proposed to maintain trout and salmon spawning, migration and habitat in the river, said Dunn.

In July, 1980, the Department of Water Resources conducted a hearing on this application. As a result of the hearing, the board requested that the Department allow an additional meeting to better analyze flow data and local public interest.

The board conducted this public meeting in November, 1981, and amended its application based on comments made at the meeting. In essence, the board is seeking a lesser stream flow, scaled down from the original application filed in 1979. At that time, a flow varying from 74 cfs in February to 127 cfs in August, September and October was sought.

more

Pahsimeroi

add 1-1-1-1-1-1-1-1-1-1-1

"If approved, this instream flow right would be junior in priority to those rights already established and in use, according to Idaho water law," the director explained.

The hearing is open to the public.

-30-

Kay Weaver
Information Specialist

INTER-DEPARTMENT MEMO — I

FROM Dave Tuthill

DATE 8-18-82

TO Pahsimeroi River MSF File

SUBJECT Hearing Location

The American Legion Hall has been reserved via Mr. Bill Ebberts (879-2348) Challis, Id (Adjutant). The $35 fee may be waived, he thinks. Make arrangements to pick up the key the night before from either Mr Ebberts or Gary Kelley - the county sheriff.

DRT

SIGNATURE

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

August 12, 1982

Mr. James R. Bennetts
Counsel for Water Dist. 73, et al
P.O. Box 36
Challis, ID 83226

RE: Minimum Stream Flow Application on
Pahsimeroi River No. 73-7045

Dear Mr. Bennetts:

The Department has scheduled the above referenced application for hearing on Friday, September 24, 1982, at 9:00 a.m. in the Legion Hall on Main Street. Additional information about the hearing is enclosed.

Due to your previous involvement with this application, it will not be necessary for you to notify the Director of your intent to appear at the hearing. Please notify this office only if you are not planning to appear.

Sincerely,

David R. Tuthill Jr.

David R. Tuthill, Jr.
Supervisor, Water Allocation Section

DRT:dc

enclosure

MICROFILMED

August 12, 1982

RE: Minimum Stream Flows in Idaho

Dear

The Idaho Department of Water Resources has scheduled hearings for two minimum stream flow water right applications in which you may be interested.

The hearing for the Pahsimeroi River application is scheduled for 9:00 a.m. Friday, September 24, 1982, in Challis. The hearing for the Henry's Fork application is scheduled for Thursday, September 23, 1982, in St. Anthony. Details about the hearings are included on the attached page.

On behalf of the Director of the Department of Water Resources, I wish to invite you to attend the hearings.

Sincerely,

David R. Tuthill, Jr.
Supervisor, Water Allocation Section

DRT:dc

enclosure

This letter was copied on Dept. letterhead and sent to each legislator in North-Eastern Idaho DRT 8-17-82

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

August 13, 1982

RE: Hearings on Pahsimeroi River and Henry's Fork
Minimum Stream Flow Applications

Dear Water Resource Board Member:

As you are aware, the next meeting of the Board has been scheduled for September 22, 1982, in Idaho Falls. Per a request from the Board, the Departmental hearings on minimum stream flow applications for the Henry's Fork and for the Pahsimeroi Rivers will be held the two days following the Board meeting, on September 23 and 24, 1982.

Details concerning the two applications and the respective hearings are attached. If you wish to attend the hearings, please schedule travel arrangements with Anita Warntjes.

Sincerely,

David R. Tuthill

David R. Tuthill, Jr.
Supervisor, Water Allocation Section

DRT:dc

enclosure

A copy of this letter was
sent to each Water Resource
Board member DRT 8-17-82

IDAHO DEPARTMENT OF WATER RESOURCES

Hearings on Minimum Stream Flow Applications

Henry's Fork (Application No. 21-7282 Amended)

Applicant:	Idaho Water Resource Board
Requesting Agency:	Idaho Dept. of Parks & Recreation
Hearing Officer:	A. Kenneth Dunn, Director, IDWR
Time of Hearing:	9:00 a.m., Thursday, September 23, 1982
Location of Hearing:	Fremont County Courthouse, St. Anthony, Idaho
Location and Amount of Requested Flow:	The application has been amended to show two flows. A year-round flow of 300 cfs is requested for a reach from a point just south of the confluence of the Henry's Fork and the Buffalo River, downstream more than 20 miles to a point about ½ mile below Mesa Falls. A flow of 1000 cfs has been requested for the reach from Lookout Butte downstream to a point about ½ mile below Lower Mesa Falls from April 1 to September 30 each year. The total of the two flows shall not exceed 1000 cfs.

Pahsimeroi River (Application No. 73-7045 Amended)

Applicant:	Idaho Water Resource Board
Requestion Agency:	Idaho Dept. of Fish & Game
Hearing Officer:	A. Kenneth Dunn, Director, IDWR
Time of Hearing:	9:00 a.m., Friday, September 24, 1982
Location of Hearing:	American Legion Hall, Challis, ID
Location and Amount of Requested Flow:	The application has been amended to show two reaches. One reach has a flow of 74.0 cfs from the confluence of the Pahsimeroi River with the Salmon River, upstream about 4 miles to the point of injection of Big Springs. The second reach has a flow of 45 cfs from the point of injection of Big Springs upstream about 3 miles to the discharge point of the Idaho Power Company fish rearing and release ponds.

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

August 17, 1982

Dear Interested Party:

Your name is listed on the attendance roster for the Preliminary Public Meeting held on November 18, 1981, regarding Minimum Stream Flow on the Pahsimeroi River.

The purpose of this letter is to inform you of the hearing to be held by this Department regarding the application on Minimum Stream Flow, which has been amended subsequent to the meeting. The attached page contains details about the application and about the meeting.

Any party who wishes to formally appear at this proceeding for the purpose of presenting evidence or cross examining witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five days prior to the hearing. Other parties will be given an apportunity to informally present their views and comments without the necessity of filing a notice of appearance.

Please direct any questions about the hearing to this office.

Sincerely,

David R. Tuthill, Jr.

David R. Tuthill, Jr.
Supervisor, Water Allocation Section

DRT:dc

enclosure

A copy of this letter was mailed to each party listed on the attached pages. DRT 8-17-82

MICROFILMED

IDAHO DEPARTMENT OF WATER RESOURCES

Hearings on Minimum Stream Flow Applications

Pahsimeroi River (Application No. 73-7045 Amended)

Applicant:	Idaho Water Resource Board
Requesting Agency;	Idaho Dept. of Fish & Game
Hearing Officer:	A. Kenneth Dunn, Director, IDWR
Time of Hearing:	9:00 a.m., Friday, September 24, 1982
Location of Hearing:	American Legion Hall, Challis, Idaho
Location and Amount of Requested Flow:	The application has been amended to show two reaches. One reach has a flow of 74.0 cfs from the confluence of the Pahsimeroi River with the Salmon River, upstream about 4 miles to the point of injection of Big Springs. The second reach has a flow of 45 cfs from the point of injection of Big Springs upstream about 3 miles to the discharge point of the Idaho Power Company fish rearing and release ponds.

MICROFILMED

Louie Demuh
Salmon, Idaho 83467

sent 8/17/82

John Waite
Box 1944
Salmon, Idaho 83467

Fidele Amar
Ellis, Idaho 83235

Kent Ball
Box 1336
Salmon, Idaho 83467

Nadine Chaffer
May, Idaho 83253

Jim Bob Infanger
Salmon, Idaho 83467

Mary Boggeman
Ellis, Idaho 83235

Charles Kesl
May, Idaho 83253

1981 Withdrawal etc

Ralph Hatch
Ellis, Idaho 83253

James N. Hawkins
Challis, Idaho 83226

Ray Horn
May, Idaho 83253

James Martini
Watermaster, Water Dist. 73
May, Idaho 83253

MICROFILMED

VAUGHN HIGBEE
Ellis, Idaho 83235

Ray Ellis
Ellis, Idaho 83235

Idaho Power Company
Pahsimeroi Hatchery % Bob Moore
Box 85
Ellis, Idaho 83235

Brad & C.W. Welch
Ellis, Idaho 83235

Tom Levandofske
%Rapid River Hatchery
Riggins, Idaho 83549

Jack Furey
P.O. Box 280
Challis, Idaho 83226

Don O'Neal
May, Idaho 83253

John Bruggenkamp
May, Idaho 83253

E. L. Latimer
P.O. Box 122
May, Idaho 83235

Worth Boggeman
Challis, Idaho 83226

Idaho Power Company
P.O. Box 70
Boise, Idaho 83707

Joe V. Higbee
Ellis, Idaho 83235

bob Literal
Ellis, Idaho 83235

Ford Zieglar
Ellis, Idaho 83235

Jerry Corrigan
Ellis, Idaho 83235

Tom Hamilton
Ellis, Idaho 83235

Woodrow Conklin
Ellis, Idaho 83235

Everet Cantlin
Ellis, Idaho 83235

Gary Madson
Ellis, Idaho 83235

A. M. Hatch & Sons
Ellis, Idaho 83235

Duane Moen
Ellis, Idaho 83235

Gary Chapman
Challis, Idaho 83226

Syd Dowton
Ellis, Idaho 83235

Don Blatz
Ellis, Idaho

Galen D. Scoble
[illegible] Idaho 83253

Tim Ingram
Challis, Idaho 83226

U.S. Department of the Interior
Bureau of Reclamation
Box 043 - 550 West Fort Street
Boise, Idaho 83724
ATTN: Larry Vinsonhaler

C. Mitchell
P.O. Box 215
Challis, Idaho 83226

Alton C. Pearson
Box 93
Ellis, Idaho 83235

Dick Coleman
Box 5
Challis, Idaho 83226

Jim Dowton
MAy, Idaho 83253

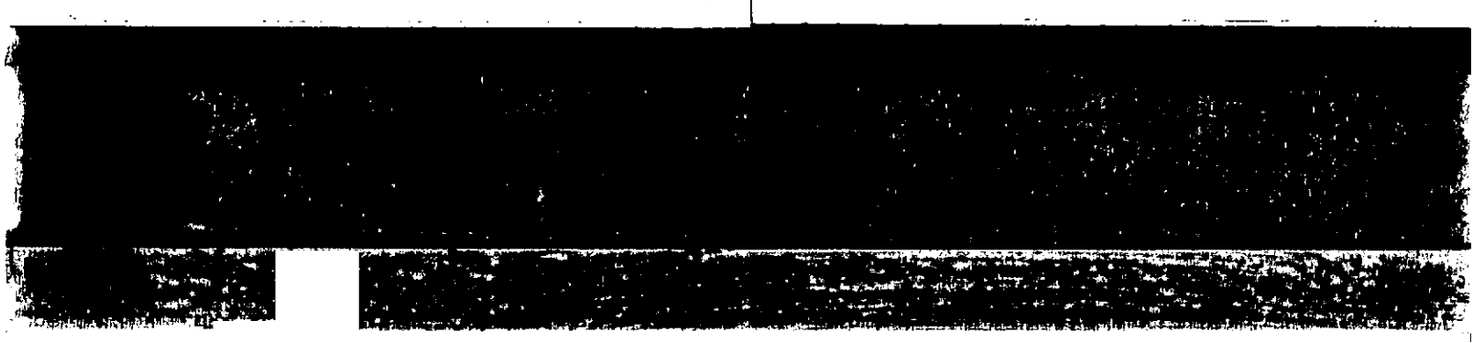
Steve Amar
Ellis, Idaho 83235

Emerson Lattimer
Ellis, Idaho 83235

Matsuria Bros.
Ellis, Idaho 83235

Debra Krystal
Ellis, Idaho 83235

Charles Charlton
Ellis, Idaho 83235



Larry R. Wimer
Box 70
Boise, Idaho 83707

Bob Moore
Box 85
Ellis, Idaho 83235

Paul Menser
Box 707
Challis, Idaho 83226

Clara E. Dowton
Box 542
Salmon, Idaho 83467

Bolen Uresti
Box 74
Mackay, Idaho 83251

Roy Ellis
Star Route
Ellis, Idaho 83235

Vaughn Higler
Box 33
Ellis, Idaho 83235

Bil Horton
1540 Warner Ave.
Idaho Dept. Of F & G
Boise, Idaho 83720

Martin Landa
May, Idaho 83253

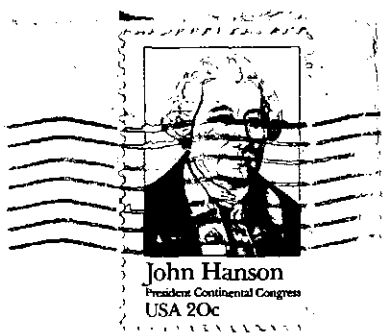
Joe Landa
May, Idaho 83253

Mike Field (USS Jim McClure)
Pocatello, Idaho

Mark Chivers
Challis, Idaho 83226

Marsha L. White
Post Office Box 2429
Salmon, Id. 83467

SALMON, ID
JAN 4
PM
1982
83467



Reed Hanson

Chairman, Idaho Water Resources Board

StateHouse

Boise, Idaho 83720

C

January 3, 1982

RECEIVED
JAN 7 1982
Department of Water Resources

Reed Hanson
chairman, Idaho Water Resources Board
Statehouse
Boise, Idaho 83720

Mr. Hanson,

As a volunteer worker at the Pahsimmeroi Fish Hatchery (in Ellis, Idaho) during the spring steelhead runs for the last 2 years, I wanted to write asking protection for the future of steelhead and salmon runs in Idaho.

From my hours spent working at the hatchery, I have learned to recognize the need for viable steelhead and salmon runs in Idaho's rivers.

Not only do these anadromous game fish in Idaho provide a particular niche in the mountain's biological cycle, but they offer recreational values to us as well.

The popular theory of getting "hooked on steelhead" is not without truth. Both the trout and salmon are strong fish to hook, challenging and rewarding fish to land.

By using the fish milt, as in the steelhead egg collection program at the Pahsimmeroi Hatchery, the needed fish offer an economic boon as well -- from food to fishing licenses to tourist dollars.

The egg collection and daily release of smolts during the spring runs at the Pahsimmeroi insures a healthy, good run of steelhead two to three years after their release directly below the facility.

MICROFILMED

It is apparent from studies done by the Idaho DEpt. of Fish and Game and the University of Idaho (Moscow) that the steelhead trout would not survive as a race without the additional introduction of hatchery -raised stock to the runs each year.

To maintain a healthy stock of steelhead and salmon runs returning in the Idaho rivers, the water flow of the spawning bed waters such as the Pahsimmeroi River must be protected and monitored to ensure an adequate cover for the fishes' survival and reproduction capabilities.

Existing irrigators can maintain existing use of the water from the Pahsimmeroi. I think it is possible to do this and still maintain the necessary level of flowing water needed for the fish.

These fish are part of Idaho's heritage and legacy and they deserve our protection.

Sincerely,

Marsha White
PO Box 2429
Salmon, Idaho 83467

HEARING ON
73-7045 (IWRB)
HELD ON SEP 24, 1982 IN
CHALLIS.
A SMALL, SONY I Channel
Recorder was used. If
language is not discernable
with D. Tuthill or K. Dunn

4 Tapes

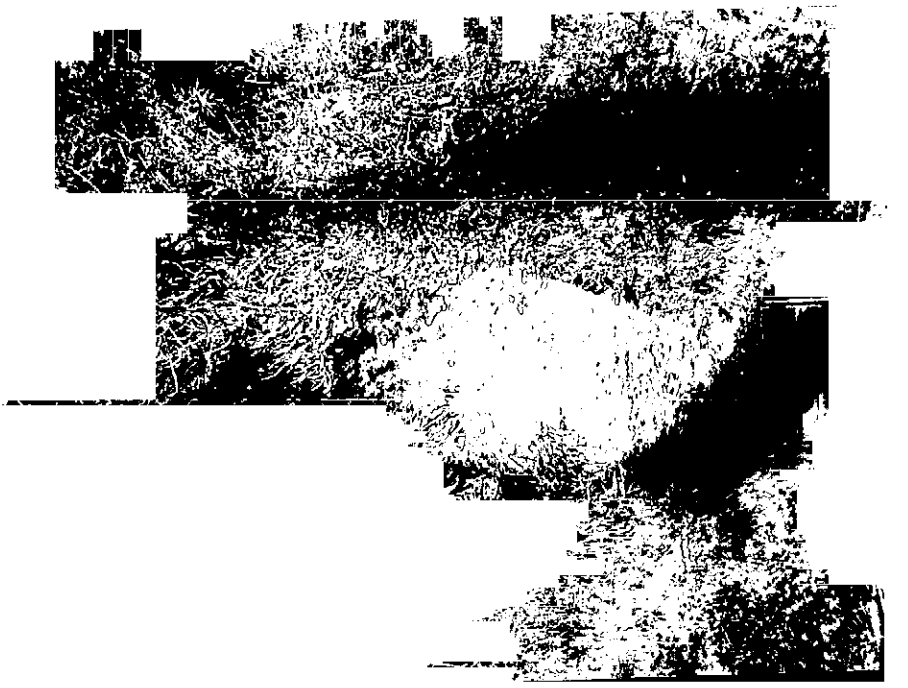


P-8 HEADGATE

73-7045

RECEIVED
NOV 20 1986
Department of Water Resources

8/5/86

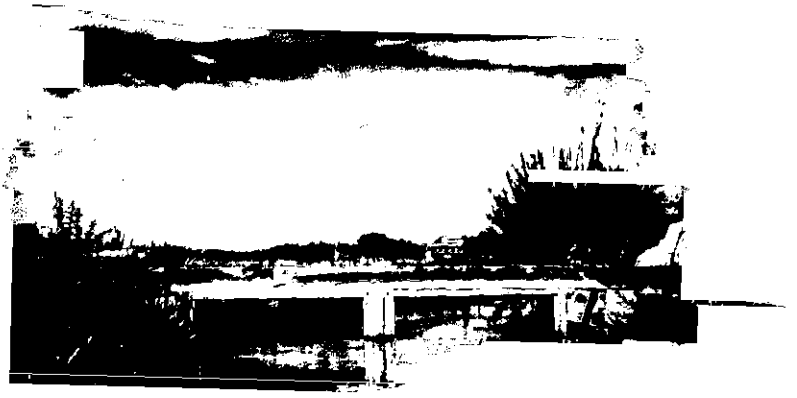


P-8 TYPICAL DITCH - BELOW HEADGATE

73-7045

RECEIVED
NOV 20 1996
Department of Water Resources

8/5/96





P-9 HEADGATE

73-7045

RECEIVED
NOV 20 1986
Department of Water Resources

8/20/86



P-9 SPILLWAY

73-7045

RECEIVED
NOV 20 1986
Department of Water Resources

8/20/86



P-9 FISH SCREEN
73-7045

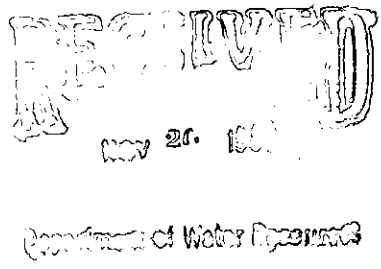
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Department of Water Resources

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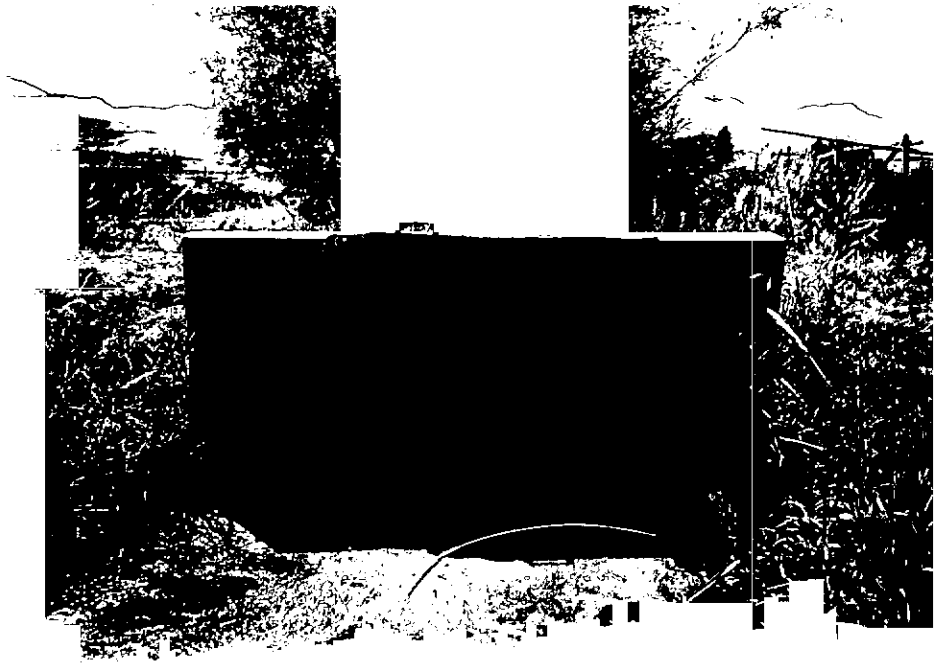


P-9 TYPICAL DITCH - BELOW SCREEN

73-7045



8/20/86



P-2/3 HEADGATE

73-7045

RECEIVED
NOV 20 1963
Department of Water Resources

8/5/86



P-2/3 TYPICAL DITCH - BELOW HEADGATE

73-1045

RECEIVED
NOV 2[illegible]
Department of Water R[illegible]

8/5/86

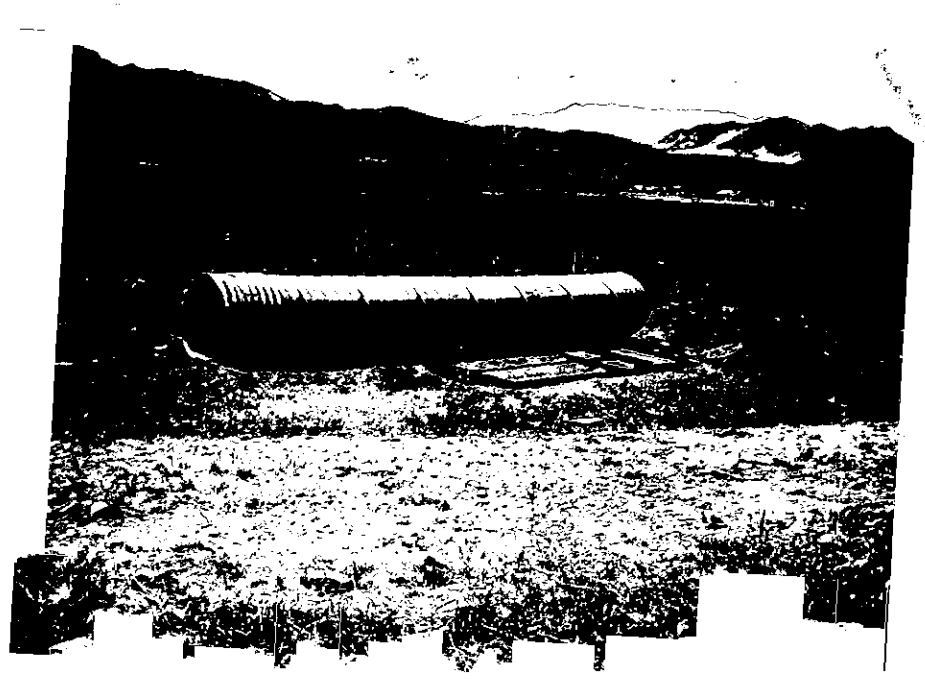


P-4 HEADGATE (OLD)

73-7045

RECEIVED
NOV 20. 1986
Department of Water Resources

8/5/86



P-4 HEADGATE (TO BE INSTALLED)

73-7045

RECEIVED
NOV 20 1985
Department of Water Resources

8/5/86



P-4 HEADGATE, DITCH AND FISH SCREEN

73-7045

RECEIVED
MAY 20 1983
Department of Water Resources

9/5/86



P-4 TYPICAL DITCH - BELOW SCREEN

73-7045

RECEIVED
NOV 25 1980

8/5/86

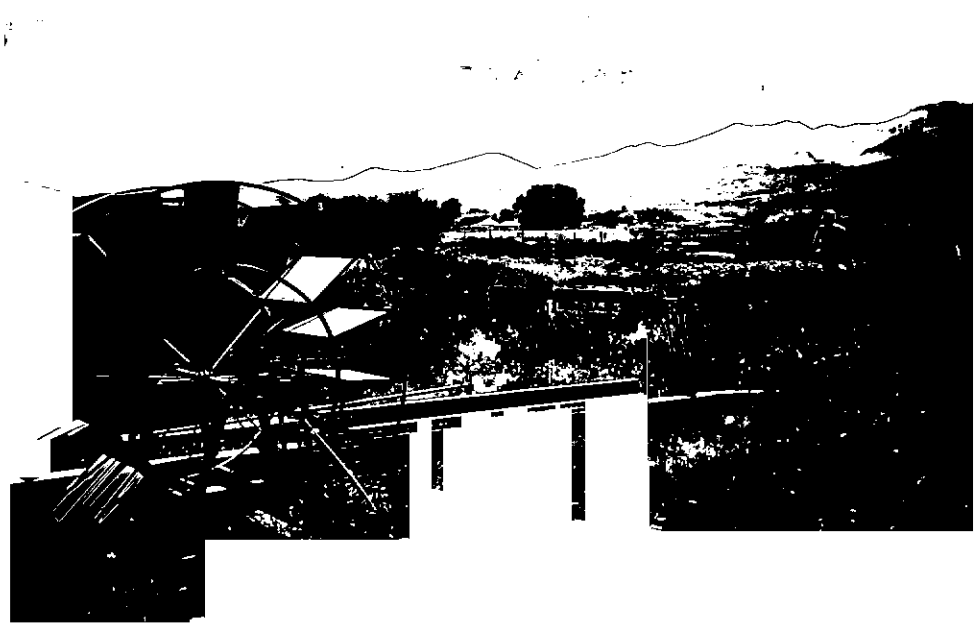


P-4A HEADGATE

73-7045

RECEIVED
NOV 20 1986
Department of Water Resources

8/5/86



P-4A FISH SCREEN AND HEADGATE

73-7045

RECEIVED
NOV 20. 1973
Department of Water Resources

8/5/86

P-4A TYPICAL DITCH - BELOW SCREEN

73-7045

RECEIVED
NOV 26 1986
Department of Water Resources

8/5/86



P-5 HEADGATE

73-7045

RECEIVED
NOV 20 1986
Department of Water Resources

8/5/86



P-5 SPILLWAY

73-7045

RECEIVED
NOV 20 1986
Department of Water Resources

8/5/86

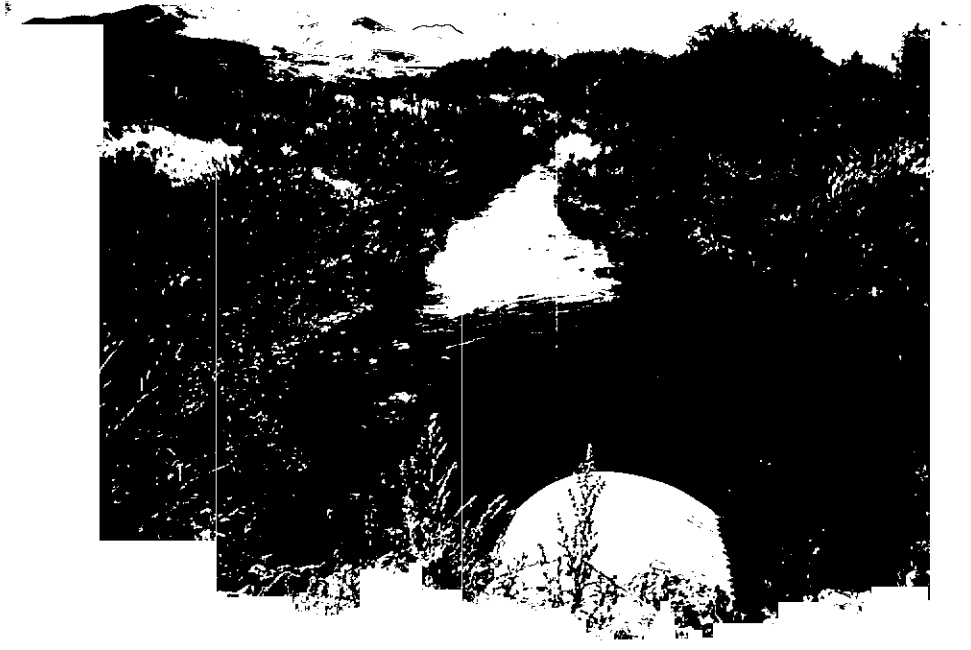


P-5 HEADGATE

73-7045

RECEIVED
NOV 20 1986
Department of Water Resources

8/5/86



P-5 TYPICAL DITCH - ABOVE SCREEN

73-7045

RECEIVED
DEC 1986
Department of Water Resources

8/5/86

P-7 HEADGATE

73-7045

RECEIVED
NOV 20 1986
Department of Water Resources

8/5/86



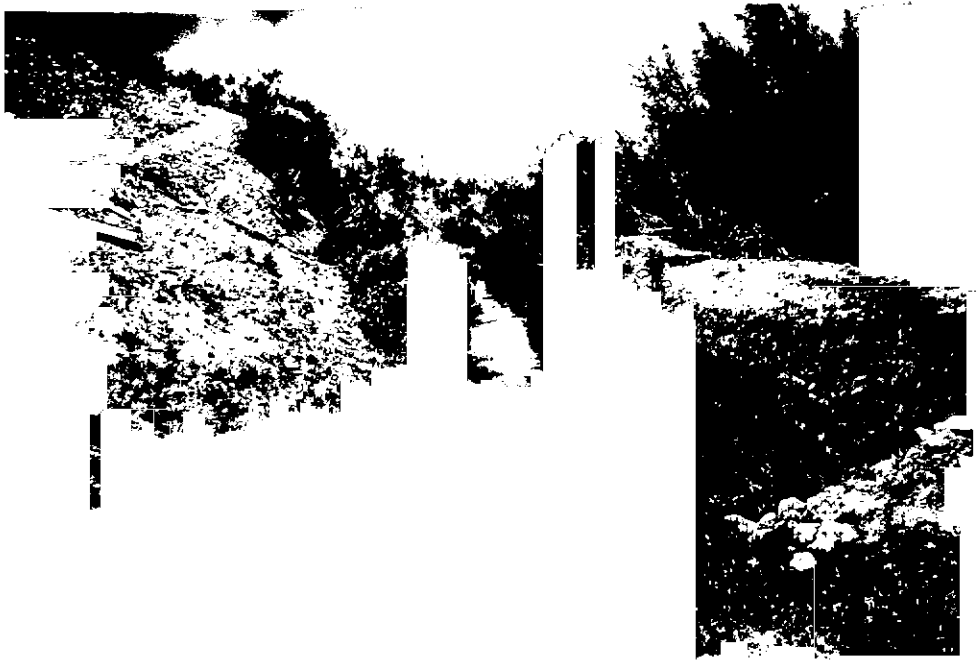
P-7 HEADGATE AND SPILLWAY

73-7045

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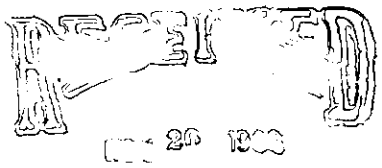
Department of Water Resources

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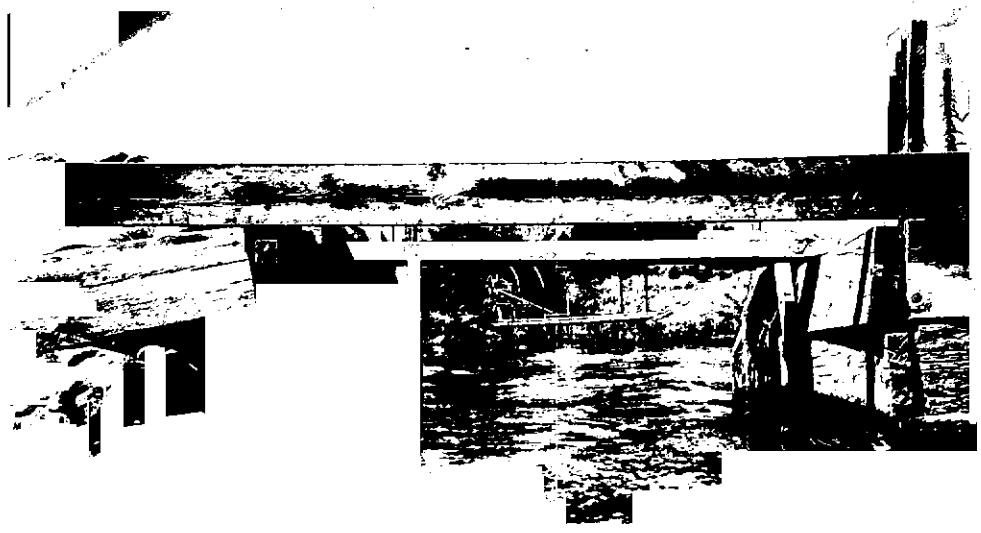


P-7 TYPICAL DITCH - BELOW SCREEN

73-7045



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P-6 HEADGATE

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Department of Water Resources

8/5/86



P-6 FISH SCREEN AND DITCH

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8/5/86



P-6 TYPICAL DITCH - BELOW SCREEN

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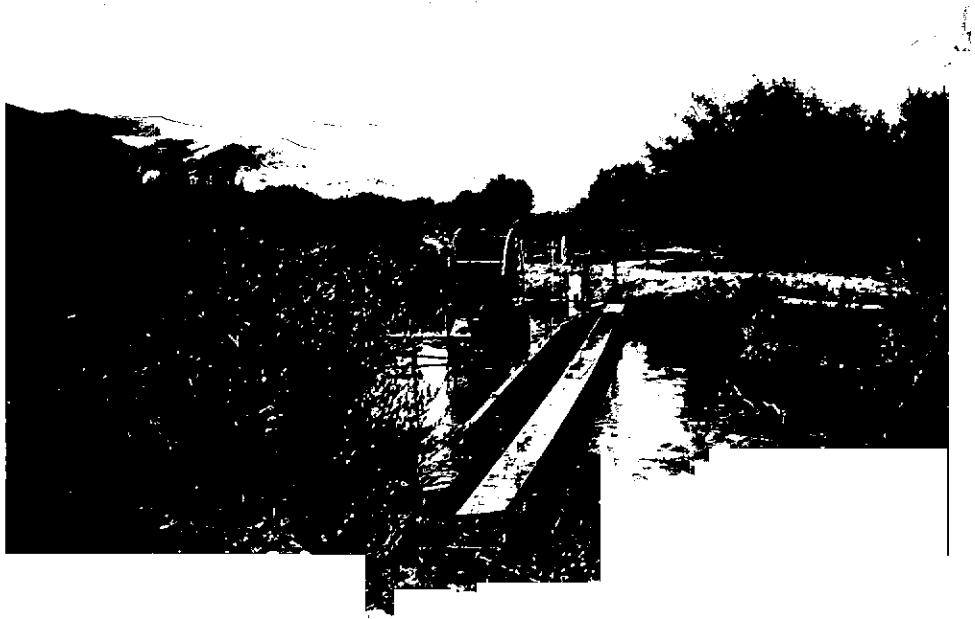


P-11 HEADGATE

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Department of Water Resources

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P-11 FISH SCREEN

73-7045

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NOV 25 1986
Department of Water Resources

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P-11 TYPICAL DITCH - BELOW FISH SCREEN

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P-8A HEADGATE AND SPILLWAY

73-7045

RECEIVED
NOV 25 1988
Department of Water Resources

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P-8A Fish Screen

73-7045

RECEIVED
NOV 20 1986
Department of Water Resources

8/20/86



P-8A TYPICAL DITCH - BELOW SCREEN

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P-12 HEADGATE

73-7045

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Department of Water Resources

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P-12 STREAM DIVERSION

73-7045

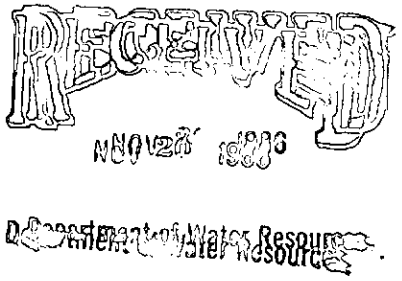
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8/20/86

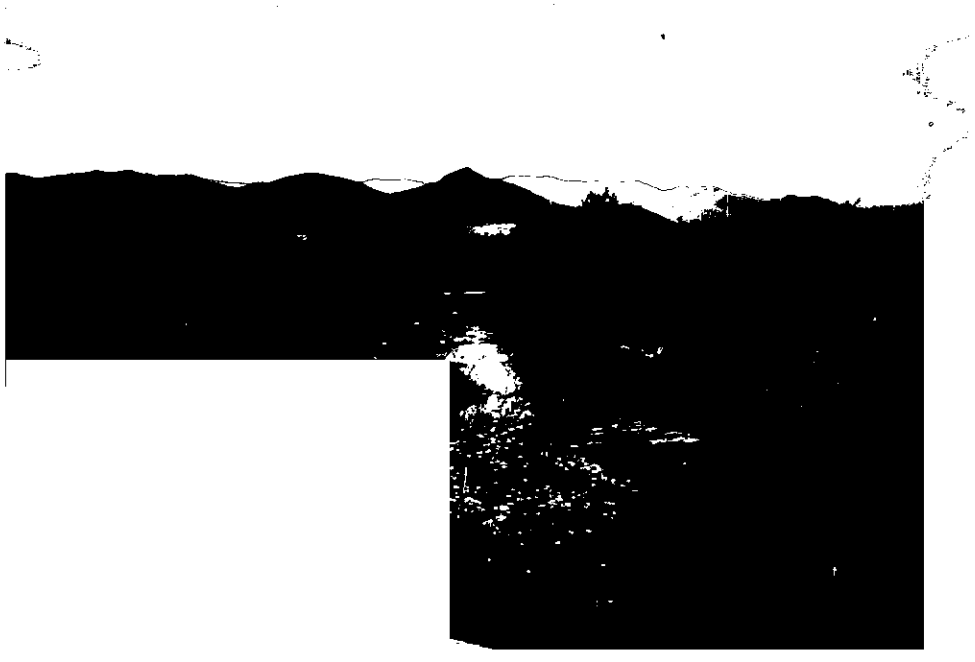


P-12 FISH SCREEN AND TYPICAL DITCH

73-7045



8/20/86



P-13 OLD HEADGATE SITE

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NOV 2' 1973
Department of Water Resources

8/20/86



P-13 DITCH BELOW OLD
FISH SCREEN

73-7045

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NOV 1986
Department of Water Resources

8/26/86

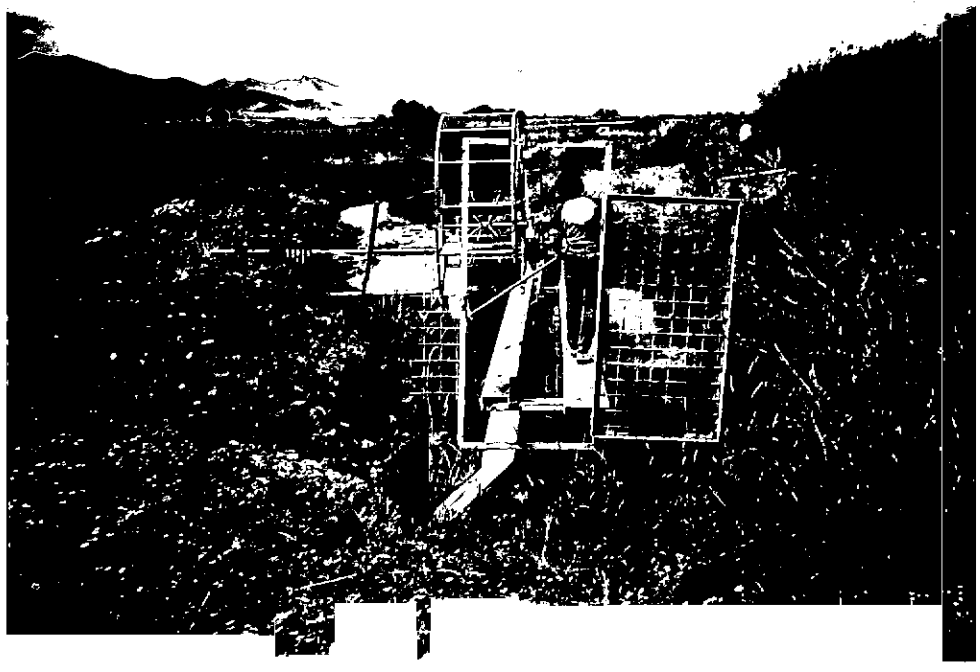


P-10 HEADGATE

73-7045

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NOV 20 1986
Department of Water

8/20/86



P-10 FISH SCREEN AND DITCH

73-7045

RECEIVED
NOV 20 1973
Department of Water Resources

8/20/68



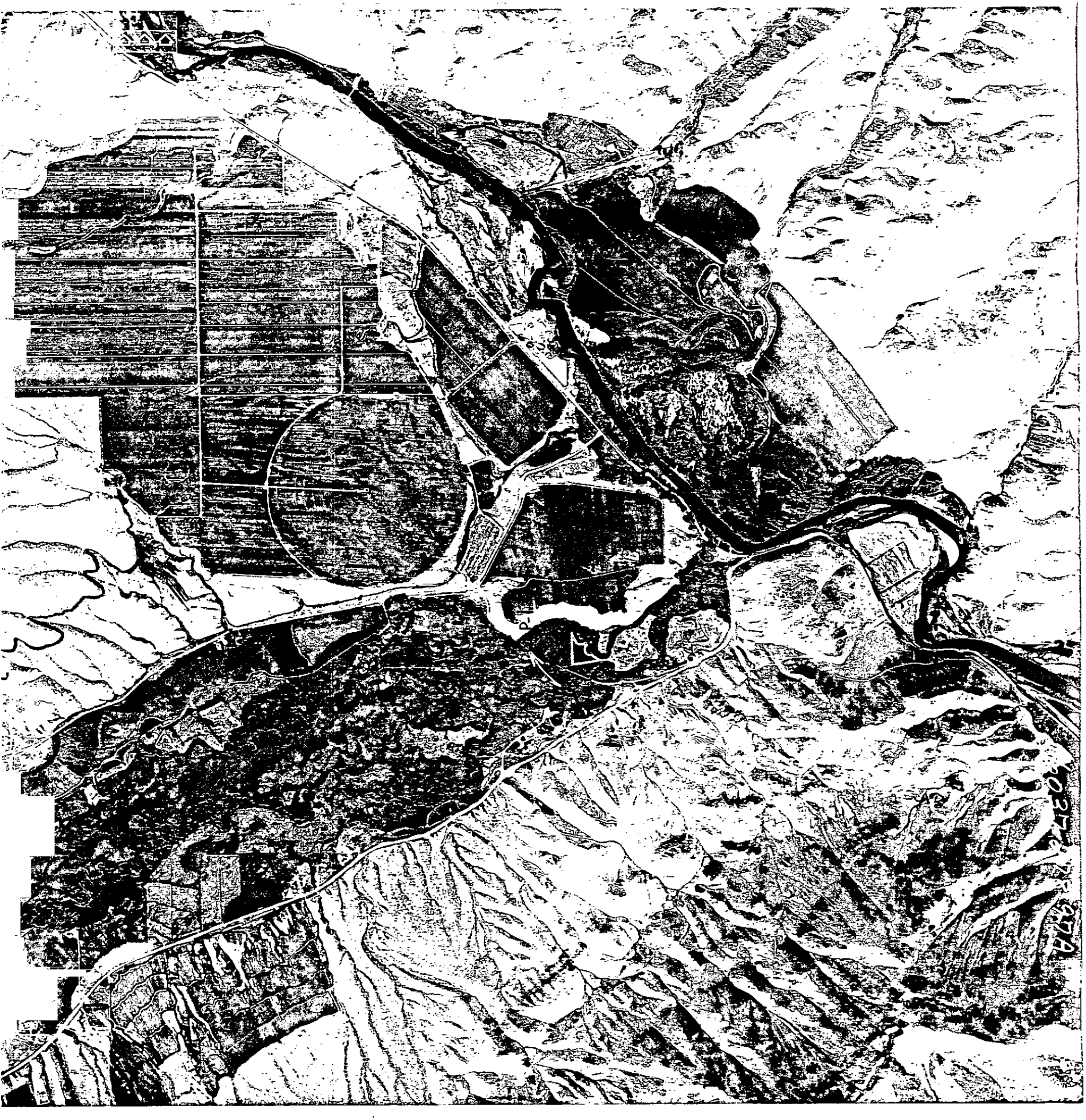
P-10 TYPICAL DITCH

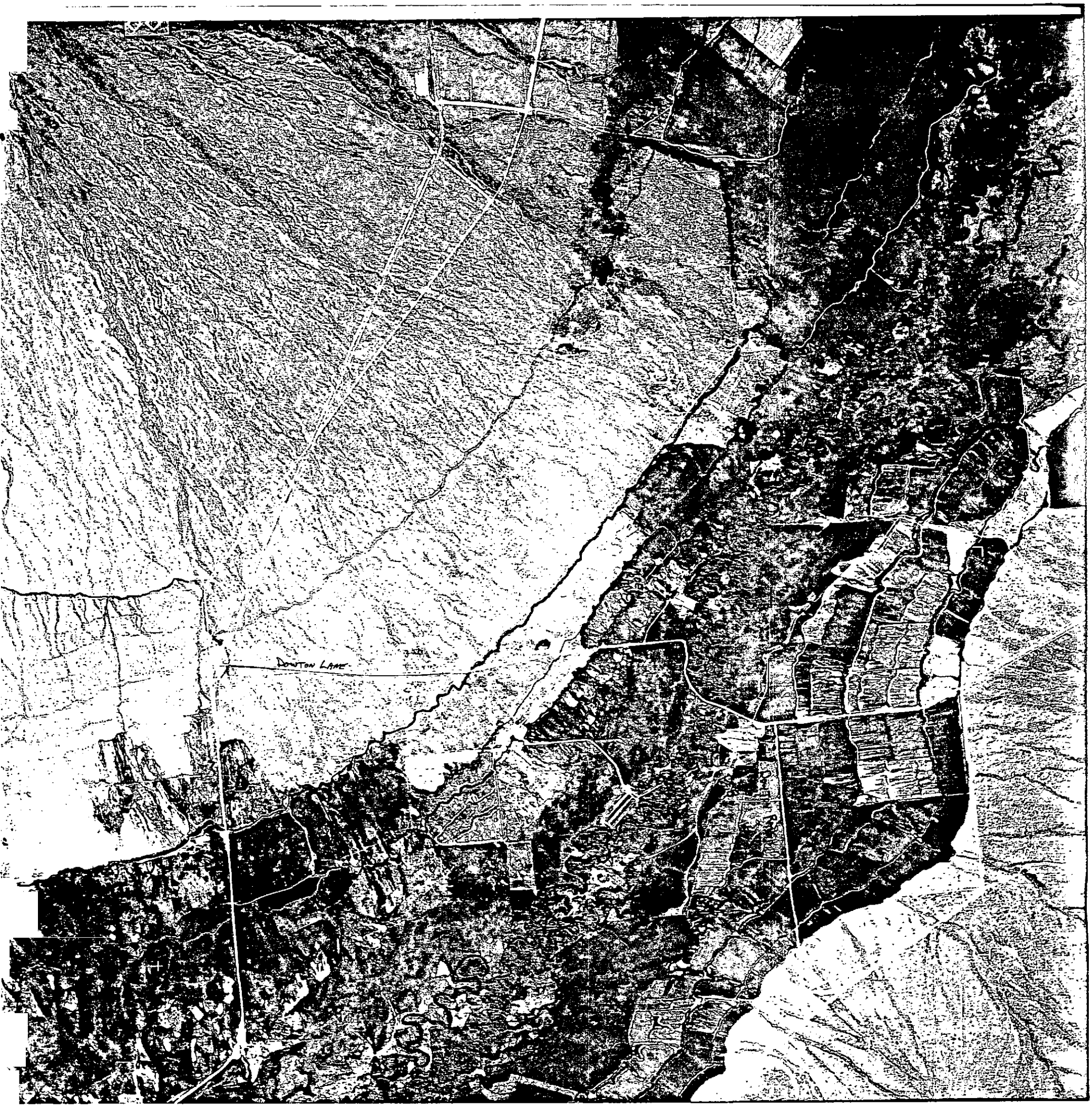
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6/20/86

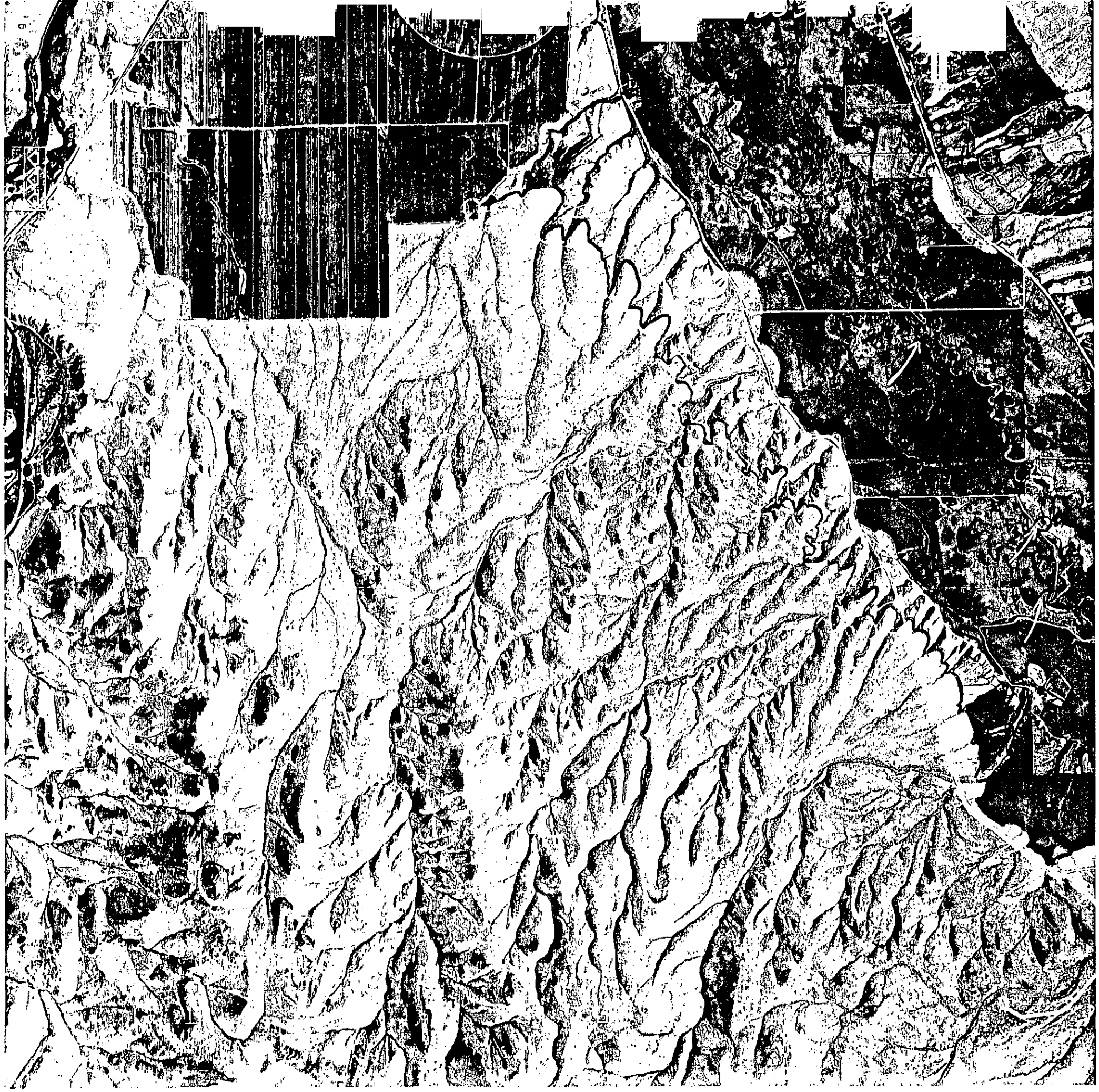
The following Maps are Substitute copies for originals filed 11-20-86 # 73-7045

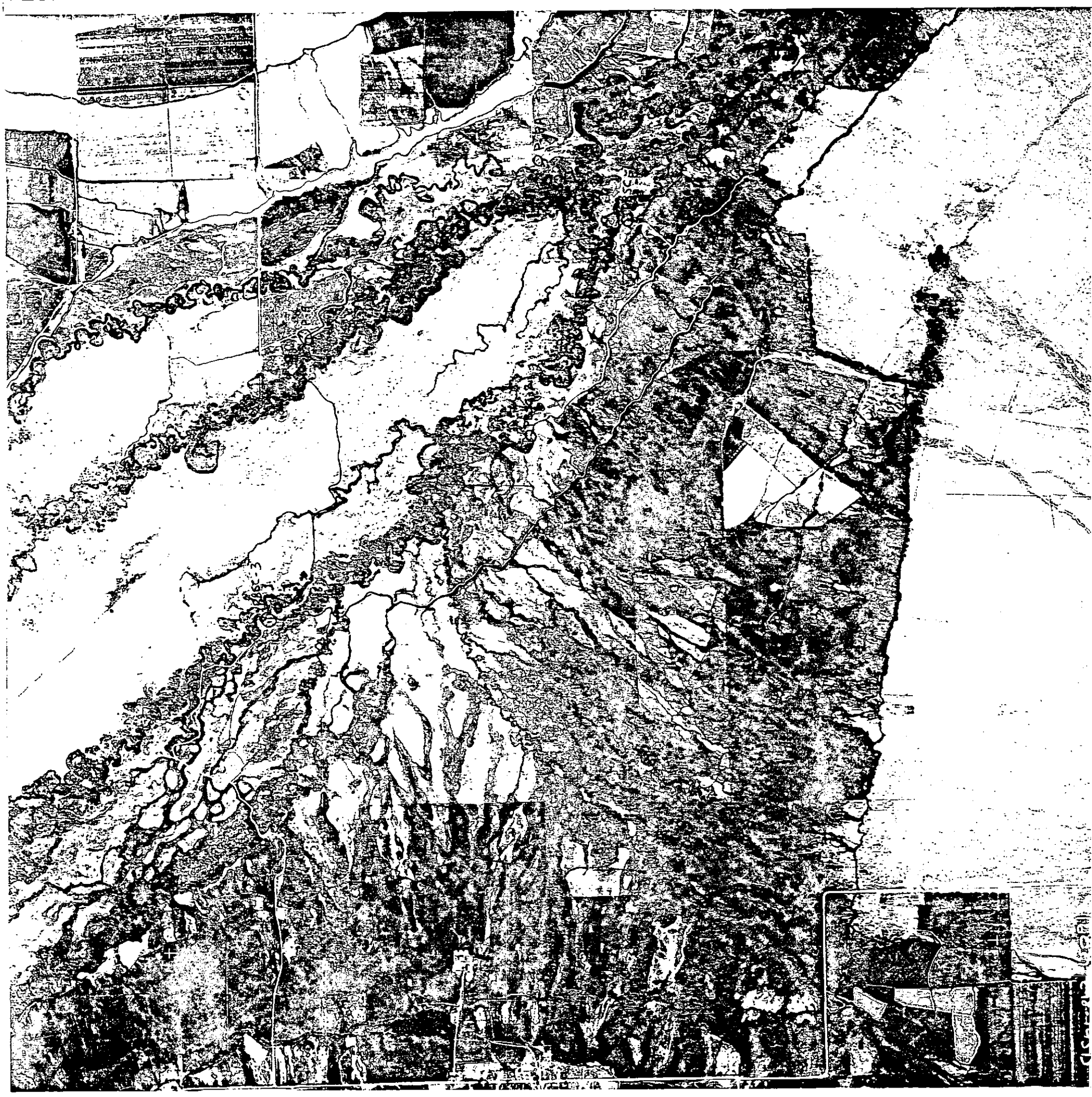
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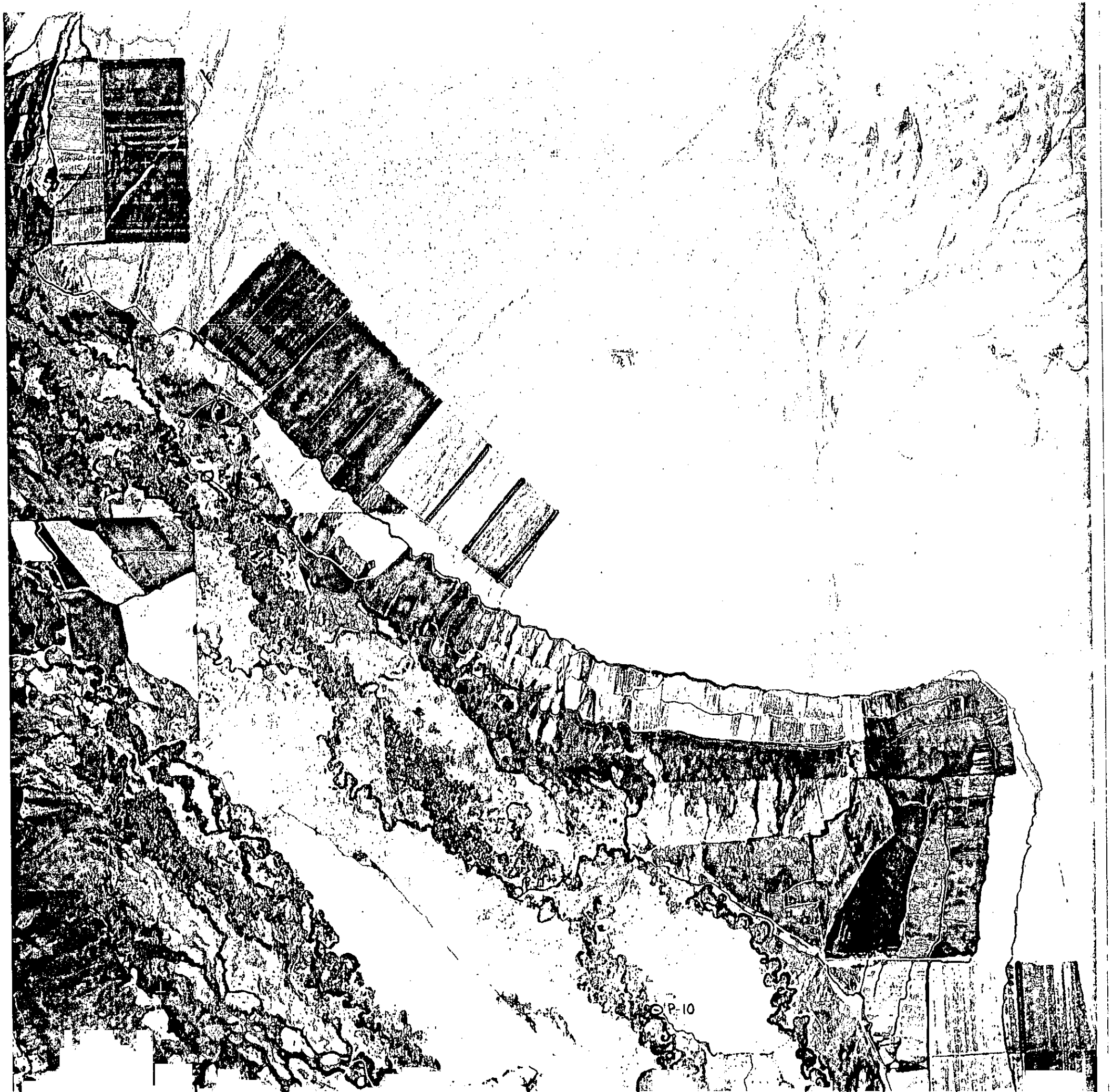

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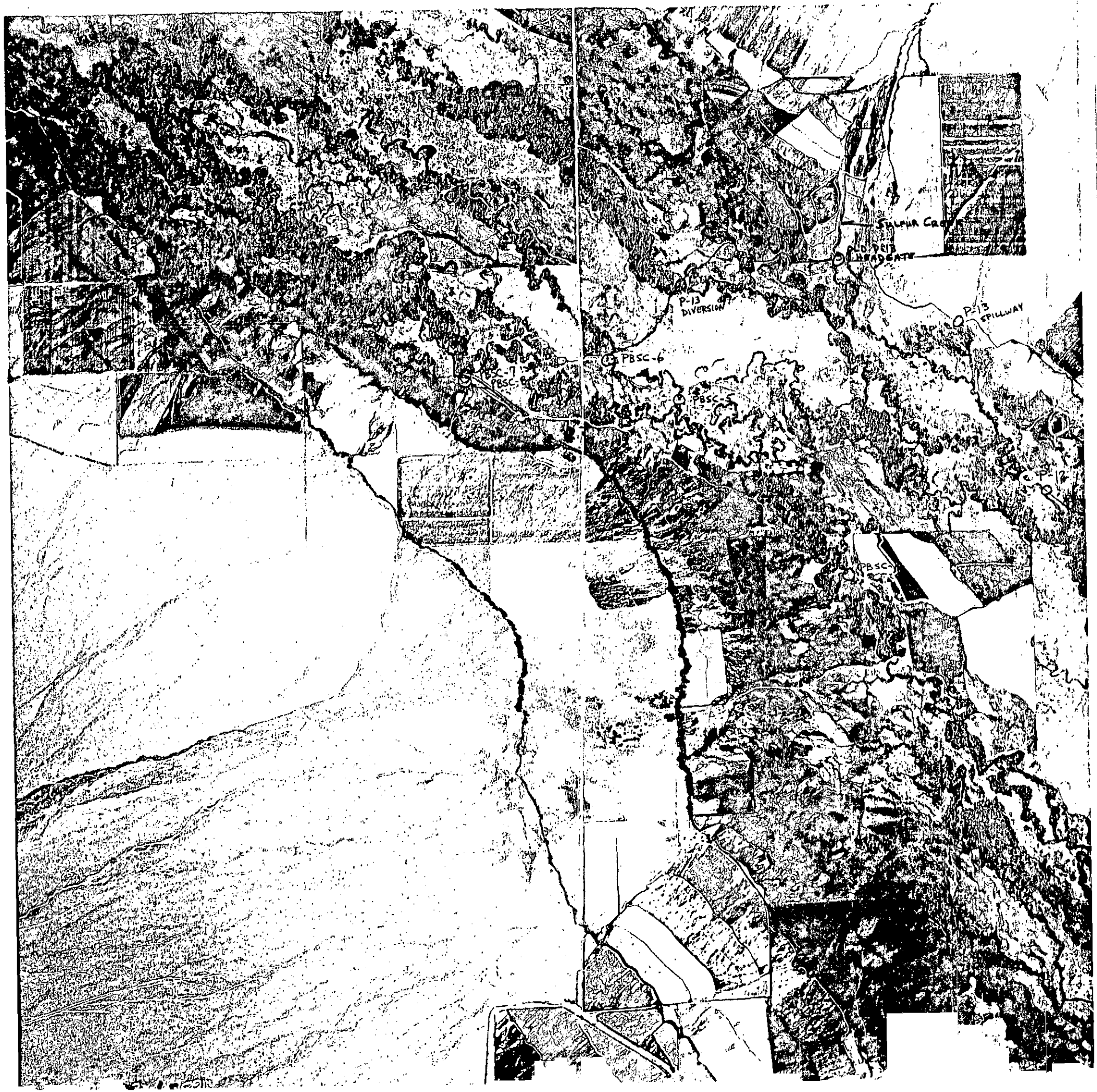

DOWTON LANE








P-10


SULPHUR CREEK
P-13 HEADGATE
P-13 DIVERSION
P-13 SPILLWAY
PBSC-6
PBSC-5
PBSC-7
PBSC-

73-7045

DOCUMENT RECEIPT

I, Stephen V. Goddard, hereby acknowledge receipt from the Idaho Department of Water Resources of the following document or documents:

Seven aerial photoghraphs identifying and showing the locations of the water diversion structures in the Pahsimeroi River Valley.

Dated this 8th day of December, 1986.

Stephen Goddard

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DEC 17 1986

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

December 4, 1986

Mr. Stephen V. Goddard
Deputy Attorney General
Idaho Department of Fish & Game
P.O. Box 25
Boise, Idaho 83707

Re: Permit No. 73-7045 For a Minimum Stream Flow in the Pahsimeroi River in the Name of the Water Resource Board

Dear Mr. Goddard:

This letter acknowledges receipt by the Department of Water Resources of the items identified in your letter of November 20, 1986 in this matter. The items were included in the Department file for Permit No. 73-7045 on November 20, 1986, pursuant to the stipulated agreement of January 6, 1986 filed with the Fourth Judicial District Court in Case No. 84-991.

Item No. 1 in your letter lists "seven aerial photographs identifying and showing the locations of the water diversion structures in the Pahsimeroi River Valley." Due to the 24" x 24" dimension of these maps printed on photo paper, the Department finds it inconvenient to store them in its file vault. The Department has, therefore, made duplications of these maps to be substituted for the originals. The duplications include one set of 24" x 24" copies and one set of 12" X 12" copies, both printed on non-photo paper which may be folded as necessary for inclusion in the file. Each 24" x 24" copy has been identified on the back as a substitute copy of the original map filed with the Department November 20, 1986 for Permit No. 73-7045. Each 12" x 12" copy has been identified on the back as a reduced copy of the original map filed with the Department November 20, 1986 for Permit No. 73-7045.

The original seven aerial photographs which are marked on the back "Received November 20, 1986 Department of Water Resources 73-7045" may be picked up from the Department at your convenience upon signing a receipt acknowledging the return of the original aerial photographs to the Department of Fish and Game.

Sincerely,

Roberta Garrett

ROBERTA GARRETT
Records Supervisor
Department of Water Resources

cc: James R. Bennetts, Esq.
R. John Insinger, Esq.
Kenneth C. Howell, Esq.

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DEC 17 1986

RECEIVED
NOV 20 1986
Department of Water Resources

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

JIM JONES
ATTORNEY GENERAL
STEPHEN V. GODDARD
SUSAN MATTOS
DEPUTY ATTORNEYS GENERAL
IDAHO DEPARTMENT OF FISH AND GAME

600 S. WALNUT ST.
P.O. BOX 25
BOISE, IDAHO 83707
(208) 334-3715

November 20, 1986

Mr. A. Kenneth Dunn, Director
Idaho Dept. of Water Resources
STATEHOUSE
Boise, ID 83720

Re: Application for Permit No. 73-7045 to Establish a Minimum Stream Flow in the Pahsimerol River in the Name of the Water Resource Board

Dear Mr. Dunn:

Pursuant to the stipulated agreement filed on January 6, 1986 in the Fourth Judicial District, Case No. 84-991, I am providing the Water Resources Department with the following items to be included in the record of this proceeding:

1. Seven aerial photographs identifying and showing the locations of the water diversion structures in the Pahsimerol River Valley.

2. Photographs (2) of the headgate and the typical ditch below the headgate for diversion P-2/3, taken August 5, 1986.

3. Photographs (4) of the headgate (old), headgate (to be installed), headgate, ditch and fish screen and typical ditch (below screen) for diversion P-4, taken August 5, 1986.

4. Photographs (3) of the headgate, fish screen and headgate and typical ditch (below screen) for diversion P-4A, taken August 5, 1986.

5. Photographs (4) of the headgate, spillway, headgate and typical ditch (above screen) for diversion P-5, taken August 5, 1986.

6. Photographs (3) of the headgate, fish screen and ditch and typical ditch (below screen) for diversion P-6, dated August 5, 1986.

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DEC 17 1986

7. Photographs (3) of the headgate, headgate and spillway and typical ditch (below screen) for diversion P-7, dated August 5, 1986.

8. Photographs (2) of the headgate and typical ditch (below headgate) for diversion P-8, dated August 5, 1986.

9. Photographs (3) of the headgate and spillway, fish screen and typical ditch (below screen) for diversion P-8A, dated August 20, 1986.

10. Photographs (4) of the headgate, spillway, fish screen and typical ditch (below screen) for diversion P-9, dated August 20, 1986.

11. Photographs (3) of the headgate, fish screen and ditch and typical ditch for diversion P-10, dated August 20, 1986.

12. Photographs (3) of the headgate, fish screen and typical ditch (below fish screen) for diversion P-11, dated August 20, 1986.

13. Photographs (3) of the headgate, stream diversion and fish screen and typical ditch diversion P-12, dated August 20, 1986.

14. Photographs (2) of the old headgate site and ditch below old fish screen for diversion P-13, dated August 20, 1986.

15. Letter dated May 27, 1986, from U.S. Geological Survey to Stephen Goddard, showing the results of the May 1986 inflow/outflow study of the reach of the Pahsimerol River from Dowton Lane to Burstedt Lane.

16. Letter dated July 18, 1986, from U.S. Geological Survey to Stephen Goddard, showing the results of the June 1986 inflow/outflow study of the reach of the Pahsimerol River from Dowton to Burstedt Lane.

17. Memorandum dated November 12, 1986, from Bill Gross to Steve Goddard regarding the Pahsimerol River-Irrigation Ditch Survey. Attached are a diagram of the headgate measurement method and the irrigation ditch measurement method, and Table of the Pahsimerol River irrigation ditch measurements, August 1986.

If you have any questions or need any clarification concerning any of these items, please let me know.

Sincerely,

Stephen Goddard

Stephen V. Goddard
Deputy Attorney General
Idaho Dept. of Fish and Game

SVG:tlv

Attachments

cc: Service List

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DEC 1 - 1986

93-7045

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Department of Water Resources

State of Idaho
Department of Fish and Game
Salmon, Idaho

November 12, 1986

M E M O R A N D U M

FROM: Bill Gross BG

TO: Steve Goddard

SUBJECT: Pahsimeroi River - Irrigation Ditch Survey

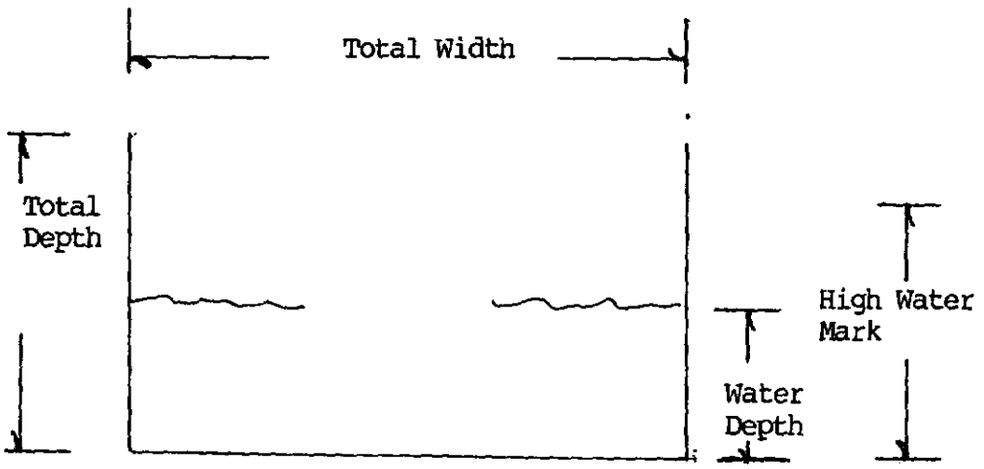
cc: Mel Reingold

The attached data and photographs were obtained on August 5, 1986 by Mel Reingold and myself and on August 20, 1986 by myself. The aerial photographs are marked as nearly as possible to the point of diversion for the respective irrigation ditches. The nomenclature used is our system for numbering fish screens.

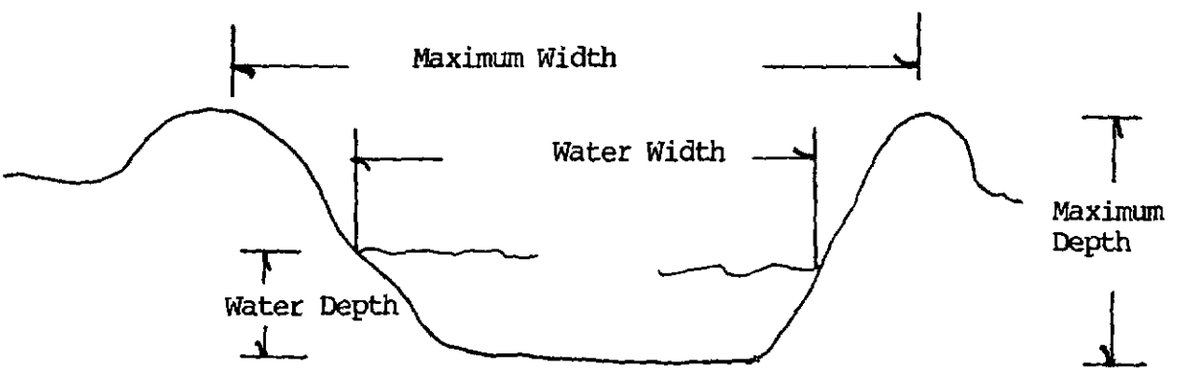
If we can be of further assistance, please call on us.

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HEADGATE MEASUREMENT METHOD



IRRIGATION DITCH MEASUREMENT METHOD



PAHSIMEROI RIVER IRRIGATION DITCH MEASUREMENTS
AUGUST, 1986

Ditch	Headgate Total Width	Headgate Total Depth	Headgate-Water Depth	Headgate-High Water Mark	Ditch-Max. Width	Ditch-Max. Depth	Ditch Water Width	Ditch Water Depth	Comments
P-1									Water is not drawn from the river.
P-2/3					20.0'	2.0'	Off	Off	Headgate is a 30" X 42" culvert pipe with slidegate.
P-4	6.0'	5.0'	Off	3.0'	17.0'	4.0'	13.0'	2.0'	Headgate will be replaced with a 30" X 42" culvert pipe with slidegate. Material was on-site.
P-4A	5.0'	3.0'	Off	1.5'	15.0'	4.0'	Off	Off	Not used in recent years.
P-5					25.0'	5.0'	14.0'	3.0'	72" culvert pipe with slidegate.
P-6	6.2'	4.0'	2.0'	2.5'	20.0'	5.0'	14.0'	3.0'	
P-7	6.3'	5.0'	2.7'	3.5'	15.0'	6.0'	13.0'	2.1'	
P-8	6.7'	5.6'	1.9'	2.6'	8.2'	5.6'	6.7'	1.2'	
P-8A	6.3'	4.7'	2.6'	3.6'	11.0'	3.0'	7.0'	1.4'	
P-9	12.7'	4.7'	2.9'	4.0'	20.0'	4.0'	14.0'	1.9'	
P-10	6.0'	4.6'	1.3'	2.8'	20.0'	4.0'	6.6'	0.4'	
P-11	8.2'	4.7'	2.6'	4.0'	20.0'	4.0'	16.0'	1.9'	
P-12	8.0'	3.8'	1.0'	2.6'	25.0'	4.0'	19.0'	2.2'	
P-13					25.0'	4.2'	13.0'	0.6'	Headgate has been washed out and fish screen removed.

13-7045

United States Department of the Interior

GEOLOGICAL SURVEY

WATER RESOURCES DIVISION
IDAHO OFFICE
230 Collins Road
Boise, Idaho 83702

RECEIVED
NOV 20 1986
Department of Water Resources

July 18, 1986

Mr. Stephen V. Goddard
Deputy Attorney General
Department of Fish and Game
600 S. Walnut Street
Boise, ID 83703

Dear Mr. Goddard:

This letter presents the results of the June 1986, inflow/outflow study of the reach of the Pahsimeroi River from Dowton to Burstedt Lane. For your convenience, I am relisting the data from the May study as follows:

	MAY DATA	JUNE DATA
Flow at Dowton Lane	55 cfs	146 cfs
Surface-water inflows	49 cfs	85 cfs
Surface-water diversions	65 cfs	100 cfs
Flow at Burstedt Lane	102 cfs	170 cfs
Apparent ground-water contribution	63 cfs	39 cfs

These data were collected May 19 - 21, and June 25 - 26, 1986.

If you have any questions, please call me at 334-1206.

Sincerely,

Robert W. Harper

R.W. Harper
Chief, Hydrologic Data Section

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JUL 22 1986

73-7045

United States Department of the Interior

GEOLOGICAL SURVEY

WATER RESOURCES DIVISION
IDAHO OFFICE
230 Collins Road
Boise, Idaho 83702

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Department of Water Resources

May 27, 1986

Mr. Stephen V. Goddard
Deputy Attorney General
Department of Fish and Game
600 S. Walnut Street
Boise, ID 83707

Dear Mr. Goddard:

These are the results of the May 1986 inflow/outflow study of the reach of the Pahsimeroi River from Dowton Lane to Burstedt Lane:

Flow at Dowton Lane	55 cfs
Surface-water inflows	49 cfs
Surface-water diversions	65 cfs
Flow at Burstedt Lane	102 cfs
Apparent ground-water contribution	63 cfs

The data were collected from May 19-21, 1986.

If you have any questions, please contact Bob Harper 334-1206.

Sincerely,

Jerry L. Hughes
Idaho Office Chief

SAF/jb

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DEC 17 1986

MAY 29 1986

LIST OF EXHIBITS

Exhibit No. (7/9/80 hearing)	Description
Dept. Exhibit 1	Description of MSF reach on county map
Dept. Exhibit 2	Applications, permits, licenses and claims
Dept. Exhibit 3	Flow duration curve, Pahsimeroi River near May; 1930-1959, 1972 (31 year period
Fish and Game Exhibit 1	No. of Steelhead juveniles released into the Pahsimeroi River at Idaho Power Company Hatchery facilities
Fish and Game Exhibit 2	No. of juvenile summer chinook salmon released from ponds into the Pahsimeroi River at the upstream Idaho Power Company facility
Fish and Game Exhibit 3	No. of adult steelhead trout collected at the adult trapping facility at the Idaho Power Company Pahsimeroi Hatchery
Fish and Game Exhibit 4	No. of adult summer chinook salmon collected at the adult trapping facility, Idaho Power Company Pahsimeroi Hatchery
Fish and Game Exhibit 5	No. of adult steelhead trout and summer chinook salmon passed upstream from the weir at Idaho Power Company's adult facility to resume spawning
Fish and Game Exhibit 6	No. of juvenile steelhead trout released into the Pahsimeroi River from programs other than Idaho Power Company Mitigation
Fish and Game Exhibit 7	Proportion of steelhead anglers' catch from the Salmon River below North Fork that originated from the Idaho Power Hatchery program on the Pahsimeroi River

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List of Exhibits (Cont'd)	Description
Fish and Game Exhibit 8	Stream resource maintenance flow studies, 1976
Fish and Game Exhibit 9	Stream resource maintenance flow determinations on Idaho streams March 1, 1978 to February 28, 1979

(9/24/82 Hearing)

IDWR Exhibit 1	Map of MSF on Pahsimeroi River
IDWR Exhibit 2	Flow duration curve, Pahsimeroi River near confluence with the Salmon River 1930-1959, 1972 (31 year period)
Protestant Exhibit A	A Reconnaissance of the Water Resources of the Pahsimeroi River Basin, Idaho, Idaho Department of Water Administration Water Information Bulletin No. 31
Protestant Exhibit B	Affidavit of Donald W. Shenton, with attached discharge measurement notes
Revised, Protestant Exhibit C	Flow duration curve, Pahsimeroi River near May, 1930-1959, 1972 (31 Year period)
IDF&G Exhibit 10	Update of Exhibits 1 through 7 entered at 7/9/80 hearing
IDF&G Exhibit 11	Loss of Fisheries Economic Adjustment Strategy, Butte, Lemhi & Custer Counties, Idaho
IDF&G Exhibit 12	Map of the main Salmon River and Middle Fork of the Salmon River showing locations of temperature recording stations and various sampling and observation areas used for anadromous fish rearing study in 1968 and 1969
IDF&G Exhibit 13	Summary of weekly maximum water temperatures of the main Salmon and Middle Fork of the Salmon rivers, July through October, 1968

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DEC 17 1986

List of Exhibits (Cont'd)	Description
IDF&G Exhibit 14	Certification of Public Record, Bob Moore
IDF&G Exhibit 15	Climatological Data, Annual Summary, Idaho, 1980, Volume 83
IDF&G Exhibit 16	Climatological Data, Annual Summary, Idaho, 1981, Volume 84
IDF&G Exhibit 17	Precipitation Data for the May Station for the 1980-1981 water year
IDF&G Exhibit 18	Water flows of Pahsimeroi River measured by Idaho Department of Fish and Game, 1981
IDF&G Exhibit 19	Composit Aerial Photo showing locations of measuring points identified by Exhibit 18
IDF&G Exhibit 20	Vitae of Tim Cochnauer
IDF&G Exhibit 21	Idaho Department of Fish and Game Pahsimeroi River stream flow investigation, August, 1982

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